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ON

SENATE OPERATIONS
1988

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FOREWORD

The Report on Senate Operations was prepared by the Committee on Rules and Administration under paragraph 1(n) of Rule XXV of the Standing Rules of the Senate. The study was initiated by the Committee Chairman in November 1987. The report was considered by the Committee on Rules and Administration at its meeting on September 20, 1988, and approved by a vote of 9 to 0 for submission to the Senate.

The floor statements presenting the report to the Senate by the Committee Chairman and Ranking Member summarize the report and explain its basic objectives.

The appendix contains a compilation of references that form the primary basis for the report and executive summary.

SENATOR WENDELL H. FORD

(Floor Statement on Rules Committee Report on Senate Operations, September 22, 1988)

Mr. President, last November, I announced on the floor of the Senate the intention of the Committee on Rules and Administration to undertake a "comprehensive study" of proposals to improve the operation of the Senate. I am pleased to have this opportunity today to bring Senators up-to-date on the actions taken and progress made since that announcement.

With the concurrence of Senator Ted Stevens, the ranking Republican member of the Committee, Dr. Otis A. Singletary, President Emeritus and Professor of History at the University of Kentucky, was invited to serve as a consultant to the Committee, and was specifically charged with preparing a report that would review past studies and recommendations, analyze current proposals for change, and focus upon the more significant unresolved issues still facing the Senate.

Dr. Singletary's report, which was submitted this past July, provided a thorough review of earlier committee reports and studies, including the work of the Culver Commission (1976), the Stevenson Report (1977), the Pearson-Ribicoff Study (1983), the Quayle Committee Report (1984), and numerous resolutions relating to Senate floor activities. He also provided an analysis of current proposals for change, items either under consideration or likely to be considered by the 100th Congress. Included were proposals sponsored by Senators Byrd, Kassebaum, Inouye, Pryor and Danforth, among others. I am pleased to say that due note was also taken of the expressed views of Senate wives, who are appropriately concerned about "quality of life" issues in the Senate.

The report also included information from the recently published (January, 1988) survey of the 100th Congress entitled "Congress Speaks." The responses in this survey provided by Members of the Congress reflect strong sentiment for change and address directly many of the issues included in this report (specifically, budget reform, the committee system, the legislative schedule, limiting debate on a motion to proceed, and rules pertaining to germaneness).

This report is not and was not intended to be a "new study". The objectives were to present a survey of recent attempts at reform, to provide some indication of what has actually been done as a result of those efforts, and to identify some of the more significant issues that remain, as yet, unresolved. Dr. Singletary's report served as the basic "working paper" in the drafting of the Committee report which I am submitting to the Senate.

In the preparation of this report, we have held public hearings, commissioned staff studies, and consulted with Senators and informed observers of the Senate. The Committee conducted a survey of committee chairmen and ranking members. The CRS also provided invaluable assistance in the Committee's work.

In addition to Rules Committee members, each member of the Ad Hoc Committee to Improve Senate Operations was provided a copy of the report for review and response. It is our hope that the "Quality of Life" Committee will come forward with specific proposals for implementing changes in Senate operations to address the issues presented in this report.

Mr. President, I ask unanimous consent that the report, in its entirety but not the Appendix, be printed in the Record, so that each Member will have full access to it.

As you become familiar with the report, you will note that it is not merely a review of past studies of Senate operations. We also provide an assessment of the climate for change and explore several aspects of Senate operations that appear to merit particular attention; they are:

The efficient use of a Member's time on floor activities;

The difficulty of scheduling business on the Senate floor;

The recurring concerns over committee assignments and schedules;

The issue of germaneness and other proposals affecting floor amendments; and

The frustrations that often result from the authorization, appropriation, and budget process.

The report also addresses issues relating to committee jurisdictions, as well as improvements in the Senate's computer systems.

The Committee on Rules and Administration has a continuing responsibility under Standing Rule 25 to study and report to the Senate on the organization and operation of that body. This report has been prepared and submited pursuant to that responsibility. We have approached this task in a dispassionate and non-partisan manner with recognition and appreciation of the fact that the Senate is a unique and uniquely important institution under the Constitution, an institution where party interests and policy questions of the moment can be transcended.

In its work, the Committee has been guided by two fundamental beliefs. First, Members must be as concerned with preserving the Senate as with changing it, though history and experience show that prudent change may be necessary to preserve its fundamental nature and purpose. As I have said to the Committee, and now say again to you, our primary goal continues to be the maintenance of the Senate as a truly deliberative, responsible, and responsive legislative body. Second, the condition of the Senate is not just the responsibility of this Committee. The challenging and sensitive balancing of continuity and change in this venerable institution must engage the wisdom, the insight, and the experience of all Members. Firm in this conviction, we urge the Senate, as a body, to give prompt and serious consideration to this important matter.

Thank you.

SENATOR TED STEVENS

(Floor Statement on Rules Committee Report on Senate Operations, September 22, 1988)

Mr. President, I want to commend the Chairman of the Rules Committee, Senator Ford, for transmitting to the Senate the Rules Committee Report on Senate Operations. In particular, I commend the Chairman for the cooperative and bipartisan manner is which he and his staff have conducted the drafting of the Report.

I believe the Report, itself, will provide senators with an excellent summary of the four studies on Senate Operations conducted in recent years by the Culver, Stevenson, Pearson-Ribicoff, and Quayle Committees, as well as reform proposals recently introduced by Senators Byrd, Kassebaum, Inouye, Pryor, Danforth, and myself.

By analyzing each of these studies and proposals, this Report does a good job of setting before the Senate the major issues and ideas discussed in recent years with regard to improving the Senate.

The Chairman and I agree that there is a great deal of sentiment in the Senate for constructive change in the way we operate this institution. We also agree that changes are unlikely to occur at the end of a Congress. Procedural reform is most likely to occur at the beginning of a new Congress, before Senators' attention is diverted from institutional matters to the substantive issues of the day.

The Report on Senate Operations will serve as an excellent starting point for the Leadership to begin considering changes which could be implemented during the opening weeks of the 101st Congress.

I also share the Chairman's sentiment that changes in our Standing Rules and procedures should be done with a great deal of caution. Changes in procedure can often yield unpredictable results. Moreover, much can be accomplished through Leadership initiatives as well as through the active enforcement of our existing rules.

But we should also be open to procedural change when we determine, after careful scrutiny, that our procedures or institutional arrangements are deficient. Procedures cannot settle policy issues; yet, they can have a profound impact on the manner in which the Senate considers policy matters. As an example, it can certainly be said that the Congressional Budget Act adopted in 1974, and the Gramm-Rudman-Hollings budget procedures, have profoundly impacted our policy decisions on the Federal budget.

I therefore urge Senators to give this Report due consideration over the Fall recess, so that we can convene the 101st Congress ready to make some positive improvements in the operation of the Senate.

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EXECUTIVE SUMMARY

On November 17, 1987, Senator Wendell Ford announced to the Senate that the Committee on Rules and Administration would "undertake a comprehensive study of proposals to improve the operations of the Senate." His intention was endorsed by Senator Ted Stevens, the ranking Republican member of the Committee and the author of an innovative and thoughtful package of proposals. In the following months, the Committee has studied the bills and resolutions Senators have introduced, held public hearings, commissioned staff studies, and consulted with Senators and informed observers of the Senate. The Committee also has conducted a survey of committee chairmen and ranking members, the responses to which are reprinted in an appendix to this report.

The Committee has approached this task in a dispassionate and non-partisan manner, recognizing that the condition of the Senate as a unique and uniquely important institution under the Constitution transcends party interests and policy problems of the moment. The Committee also has been guided by two other fundamental beliefs. First, Senators must be as concerned with preserving the Senate as with changing it, though some changes may be necessary to preserve its fundamental nature and purpose. As Senator Ford observed to the Committee, "maintaining the Senate as a truly deliberative and responsible legislative body must be our prime goal." Second, the condition of the Senate is not just the responsibility of this Committee; the challenge of balancing continuity and change in the Senate must engage the wisdom, insight, and experience of all Senators.

In this report, the Committee assesses the climate for change in the Senate, and reviews four recent studies of Senate operations. Then the report considers four aspects of Senate operations that merit particular attention: the difficulty of scheduling business on the Senate floor; the recurring concerns with committee assignments and schedules; the issue of germaneness and other proposals affecting the subjects of floor amendments; and the frustrations that often result from the authorizations, appropriations, and budget processes. The report also addresses issues relating to committee jurisdictions as well as improvements in the Senate's computer systems.

Based on its study, the Committee has identified a number of proposals which, in its judgment, deserve serious consideration by the Senate:

—Agreeing on an annual agenda of legislative issues, as recommended by the Pearson-Ribicoff Study Group. Such an agenda, developed at the initiative of the Majority Leader, would help to define the Senate's priorities, organize its deliberations, and focus its attention, but need not restrict the Senate to a catalog of specific measures to be considered.

—Revitalizing the Senate's Morning Hour procedures, and developing more formalized procedures for disposing of measures on which there is little or no disagreement, again as proposed in the Pearson-Ribicoff report. In this way, the Senate would transact routine business in predictable ways and at predictable times, leaving most of each daily session available for uninterrupted deliberation on weightier matters.

—Imposing a time limit, or prohibiting all debate, on motions to proceed to consider measures. In S. Res. 309, for example, Senators Byrd, Stevens, and Pryor have proposed a two-hour limit on each motion to proceed made by the Majority or Minority Leader. Such a limit would strike an appropriate balance between preserving the right of extended debate and enhancing the Senate's ability to complete its work in a timely fashion.

—Enabling the Senate to vote, by an extraordinary majority, that amendments to a pending measure must be germane, as proposed by S. Res. 41, for example. Rather than require all amendments to be germane at all times, this proposal would allow the Senate to impose such a requirement selectively, but only when supported by more than a simple majority.

—Strengthening existing requirements for germane amendments, by permitting the Senate to overturn rulings of the Presiding Officer on germaneness only by extraordinary majorities, and by limiting the use of "the defense of germaneness" to protect amendments to appropriations measures.

—Requiring Senators to offer their floor amendments in a more orderly and predictable sequence, as proposed by Senators Pryor and Danforth in S. Res. 277. If implemented effectively, this proposal could expedite the conduct of floor business while enabling all Senators to plan their individual schedules with greater confidence.

—Limiting "sense of the Senate" and "sense of Congress" amendments, either by requiring that any such amendment be signed by 20 or more Senators before being considered, as proposed by S. Res. 274, or by imposing a more restrictive germaneness standard for such amendments, as proposed by S. Res. 41.

—Permitting subcommittees only to hold hearings, and mandating that markups be conducted at the full committee level. Such a change could well expedite committee consideration, lead to a gradual reduction in the numbers of subcommittees and subcommittee meetings, and reduce Senators' schedule conflicts.

—Addressing schedule conflicts between committee activities and floor sessions—for example, by authorizing committees to meet either from 9:00 to 2:00 or from 12:00 to 5:00 on each day the Senate is in session, without having to obtain unanimous consent on the floor. A more flexible arrangement could provide longer periods for committees to meet each day during the early months of the year, and less time in later months as the Senate's floor workload increases.

—Moving toward implementation of biennial budgeting, perhaps on a partial or experimental basis, to enhance the predictability of, and limit the time consumed by, budget-related decisions.

—Enhancing the computer capabilities and capacities available to Senators in both their Washington and their home State offices, as discussed in an appendix to the Committee's report. Such improvements must take account of the inevitability of technological obsolesence and the desirability of optional configurations to meet the varied needs of Senators' offices.

While the Committee believes that each of these proposals has much to recommend it, many of them could have far-reaching consequences and will require even more thorough study and full debate than they have received to date. There are a host of questions to be answered, for example, about all the procedural effects of offering amendments to each part of a bill in sequence. And any restriction on "sense" amendments must address the need for related controls on second-degree amendments. Moreover, even the most well-intentioned and desirable innovation can have unanticipated consequences. For example, the problem of reconciling committee and floor schedules has been compounded by the Majority Leader's very constructive and welcome initiative of scheduling the Senate to be in session from Monday through Friday on three successive weeks, followed by a regularly-scheduled week for activities in Senators' home States.

There are several other proposals the members of this Committee have examined with interest. For example, the Committee sympathizes with the intent of the Pearson-Ribicoff Study Group to limit repetitive debates and votes on the same controversial issues. The Committee also intends to give further attention to empowering the Presiding Officer to count to determine the presence of a quorum unless the absence of a quorum is suggested by either leader or his designee. And the Committee also is interested in exploring Senator Stevens' proposal in S. Res. 461 of the 98th Congress (summarized in an appendix) to create a Time Limitation Calendar and a new set of procedures for the Senate to act on measures which enjoy overwhelming but not unanimous support. These proposals address real problems, such as the delays created by frequent quorum calls and by rollcall votes on questions that are not in doubt, so the Committee plans to give further study to the sources of the problems and to the feasibility and potential consequences of these and other proposals for responding to them.

Furthermore, the Committee believes that solutions to the Senate's problems do not always lie in changes in or additions to its current rules. For example, the Committee has carefully considered issues of committee jurisdiction and referral (and addresses them in its report); these issues also were the primary subjects of the questionnaires distributed to the Senate's committee chairmen and ranking members. Based on its study, the Committee does not find it to be necessary or appropriate at this time for the Senate to undertake the difficult and contentious task of reorganizing its committee system. This matter is important and must be seriously considered in the coming years. Frustration with the three-tier system of budgets, authorizations, and appropriations is growing and must be addressed. To fully resolve this frustration may require a comprehensive restructuring of the committee system.

Much of the frustration that Senators have expressed with the committee system is attributable to the sizes of committees and the excessive numbers of committee and subcommittee assignments that some Senators hold. The Committee strongly believes that an essential first step toward resolving these problems is for the Senate to enforce the rules it already has, and to resist the temptation to grant exceptions to satisfy the policy interests or political needs of individual Senators. Similarly, no formal rules for developing and enforcing an annual agenda are likely to work unless Senators have the will and self-restraint to make them work.

In other respects, rules changes may be desirable, but they are not a complete answer to the challenges facing the Senate now and in the decades to come. Adopting a system of biennial budgeting, or transferring the responsibilities of the Budget Committee, provides no easy solution to the deficit problem. Nor would it be practical or realistic to impose an inflexible prohibition against continuing resolutions under all circumstances, however distasteful they are to members of this Committee and all Senators. While the Committee believes that the proposals listed above, among others, deserve the most serious consideration, it remains mindful that, ultimately, there are no organizational or procedural solutions for the very real and difficult policy choices the Senate will continue to confront.

The Committee on Rules and Administration has a continuing responsibility under Standing Rule XXV to study and report to the Senate on the organization and operation of the Congress. This report is submitted pursuant to that responsibility, but the Committee's work continues. It fully intends to pursue its mandate by further hearings, studies, and other means. Some issues are of recurring concern to the Committee, such as the need to review and improve the services available to Senators and the Senate. Careful scrutiny of the budgets of the Senate Officers and the Architect of the Capitol is especially important to providing effective oversight and to ensuring that appropriate priorities and policies are being implemented. New questions also arise which require the Committee's attention, such as the problem of addressing provisions of questionable constitutionality in a conference report without jeopardizing the report in its entirety. The Committee intends to explore this question as well, and continues to welcome recommendations from other Senators regarding additional matters that merit its consideration.

INTRODUCTION

In recent years, and amid recurring frustration with the operations of the Senate, Senators have commissioned a number of reports to assess the condition of their institution and to recommend appropriate changes in its organization, procedures, and practices. Some of these recommendations have resulted in amendments to existing rules or modifications of accepted practices. Many others, however, have not yet been acted upon, either because they have lacked sufficient support among Senators or because Senators have not yet been satisfied that the proposals have received the careful scrutiny and analysis they require. In any event, expressions of frustration and concern continue to be heard, both from inside and outside the Senate, reflecting a conviction that the Senate simply is not as effective in its day-to-day operations as it should be. In response, Senators have submitted various measures during the 100th Congress that have been referred to the Committee on Rules and Administration.

In November 1987, Chairman Ford advised the Senate that the Committee would undertake an examination of these and other proposals as part of its continuing review of Senate operations. This report, which results from that study, is divided into two parts. Part I assesses the present climate for change in the Senate and reviews four recent Senate reports that addressed the state of the Senate and proposals for change. As the Senate debates proposed "reforms" in its operations, Senators will want to take full advantage of the contributions that have been made by the Commission on the Operation of the Senate, of 1975–1976 (the Culver Commission), the Temporary Select Committee to Study the Senate Committee System, of 1976–1977 (the Stevenson Committee), the Study Group on Senate Practices and Procedures, of 1982–1983 (the Pearson-Ribicoff Study Group), and the Temporary Select Committee to Study the Senate Committee System, of 1984 (the Quayle Committee).

Part II of this report addresses four general aspects of Senate operations that are of particular concern to this Committee and that have attracted widespread interest among Senators: the difficulty of scheduling business on the Senate floor; recurring issues related to Senate committee jurisdictions, assignments, and schedules; the question of germaneness and related proposals for restricting the subjects of Senate floor amendments; and the frustrations associated with the budget and appropriations process. The Committee has taken a dispassionate approach to these issues and the proposals for addressing them. There are no simple, ideal solutions to the problems that Senators have identified; otherwise, these problems would not remain subjects for debate among Senators and others who care about the Senate as an institution of representative government.

Throughout this report, and in the executive summary, the Committee has noted recommendations and proposals that it believes merit particularly serious attention and sympathetic consideration. But the Committee also believes that Senators must review any and all of these ideas very carefully before adopting them. Institutional change in the Senate is an ongoing process that must take account of the changing demands on the Senate and the changing circumstances in which Senators work, while preserving the Senate's essential and unique character. It is not enough to ask whether a proposed "reform" addresses a real and serious problem; it is equally important to determine whether the proposal offers a realistic and workable solution. And even the most well-intentioned and well-designed proposal is almost certain to have unanticipated consequences in an institution as complex as the Senate. Balancing continuity and change in the Senate must engage the wisdom and experience of all its members, without regard to party or philosophy.

Thus, the Committee presents this report not as the final word on the subject, but as a contribution that will focus Senators' attention on an agenda of important issues and proposals which deserve their consideration during the remainder of this year and into the 101st Congress. Both sections of the report reflect the Committee's formal hearings and informal inquiries. The Committee also benefited from the observations and statements Senators have made on the floor, and from assistance provided by the Government Division of the Congressional Research Service.

PART I.—BACKGROUND

THE CLIMATE FOR CHANGE IN THE SENATE

Introduction

In 1987, six Senators, including three committee chairmen, announced that they would not run for re-election. Three of these Senators stated that their frustrations with the institution and its operations had contributed to their decisions to retire. While the rate of voluntary retirement from the Senate is not at its highest, the reasons for retirements have changed. Past retirements usually were attributable to Presidential ambition, age or illness, or a Senator's belief that he had served long enough. Only recently has frustration with Senate service been cited as a compelling factor.

"Inefficient" floor procedure, characterized as spurts of activity punctuated by frequent periods of deadlock and inertia, is a major focus of complaint. Together with erratic and unpredictable session schedules, this problem undoubtedly has contributed to Senators' growing frustration with their own institution, a degree of frustration that has culminated in calls for improving the "quality of life" in the Senate. For example, Senators have complained about their inability to (1) spend time with their families; (2) arrange events in their home States that need to be organized weeks in advance; (3) plan vacations; (4) keep commitments for appearances made well in advance; and (5) do more legislative work in daylight hours than after dark.

The emergence in 1985 of a "Quality of Life Caucus," the creation in 1987 of the Senate Leadership's Ad Hoc Committee to Improve the Efficiency of the Senate, and the concerns expressed by Senators' spouses all reflect the heightened interest in and widespread desire for a more efficient Senate. The Committee believes that there is a climate for change in the Senate, and that this receptivity results from more than the unhappiness and dissatisfaction that normally accompany the stresses and strains at the end of Senate sessions.[1]

Symptoms and Causes of Frustration

Much of the frustration with Senate service is not caused by organizational or procedural inefficiencies, and so cannot be redressed by changes in its standing rules intended to enhance efficiency. But changing some aspects of Senate operations could make a difference. Three principal characteristics of the Senate are among the primary sources of Senators' frustration: (1) Senate rules, precedents, and practices governing debate, (2) the opportunity for Senators to offer non-germane amendments except under cloture and to appropriation and budget measures, and (3) perhaps most important of all, the expectation and assumption that the interests of individual Senators are to be accommodated and their prerogatives protected whenever possible.

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[1] This conclusion is borne out by a report, summarized in the Appendix, on Members' attitudes toward Congress, *Congress Speaks: a Survey of the 100th Congress*, published in January 1988 by the Center for Responsive Politics.

Almost all the problems and complaints the Committee has assessed can be traced ultimately to one or more of these characteristics. In one way or another, proliferating committee duties, holds on legislation, the uncertainties of floor scheduling, the length and frequency of quorum calls, the unpredictability of the amendment process on the floor, the iterative process of making budget decisions, as well as the more general issue of self-discipline and self-restraint, all can be profitably assessed in terms of the three underlying sources of the frustration that have been building in the Senate.

Potential Solutions

Distinguishing carefully between causes and symptoms is crucial to reaching appropriate judgments about the potential beneficial or adverse effects, and the possible unintended or unanticipated consequences, of the specific proposals for change in Senate rules, structures, and norms of conduct that the Committee has considered. This is particularly true regarding the accepted and expected practice of protecting Senators' prerogatives and interests. With the end of Lyndon Johnson's highly centralized management of the Senate, the Senate returned to the long-established norm of accommodating individual Senators—a way of doing business more compatible with the historic nature of the Senate and its legislative practices. In fact, it is doubtful whether contemporary Senators would accept another Majority Leader who attempted to dominate the Senate to the extent Johnson did during the late 1950s.

The size of the House of Representatives and the expectation that its Members are to specialize more than Senators both are compatible with its more structured floor procedures, tighter control of debates, and more pervasive rules of germaneness. In the smaller Senate, on the other hand, its procedures traditionally have allowed for much greater freedom of debate and action. Furthermore, Senators were originally considered to be representatives of their States, elected by and accountable to their State legislatures. While the popular election of Senators changed this relationship, the continuing ties between Senators and their States have always protected the Senate against succumbing to a mechanical process of decision-making by simple majority vote. Accordingly, certain norms and expectations that developed early in the Senate's history prevail to this day.

First, the Senate always has prided itself on being a deliberative body, in which strict limitations on debate are unsuitable. It was not until early in this century, it must be remembered, that the Senate adopted any cloture rule at all. Most motions and other matters are debatable, and closing debate by cloture requires a super-majority. The Committee has encountered no convincing evidence to suggest that a majority of Senators have become frustrated and impatient enough to support cloture by simple majority vote. If so, then proposals affecting debate are likely to play at the margins without fundamentally altering debate rules in the Senate or their implications for how the Senate does its business.

Second, the Senate practice of allowing non-germane amendments has long been accepted. While Senators sometimes have complained about this practice, it does yield important benefits to the Senate and the Congress. But it also entails costs, such as unpredictable scheduling, inter-chamber conflict, periodic White House complaints, and media criticisms. As with the norms and rules affecting debate, the Committee finds no reason to believe that the Senate is disposed either to eliminate the possibility of non-germane amendments or to permit Senators to prohibit them by simple majority vote. However, Senators may now be prepared to consider proposals by which a super-majority of the Senate can impose limitations on the subjects of floor amendments in selected situations.

Third, no norm has a more important impact on the Senate than that of accommodating the interests and prerogatives of individual Senators. This norm has become so pervasive and powerful as to have contributed significantly in its own right to the frustration level now being heard in the Senate. A principal reason for this may be that Senators expect the leadership to accommodate their desires, but appear less willing to balance their requests against the need for the leadership to operate the Senate in a reasonably efficient way. Such attitudes and expectations among Senators contribute to the delays and lost time that sometimes plague the Senate and invite criticism from Senators as well as from those who observe it from outside. Scheduling by the leadership is difficult and subject to uncertainties and frequent changes, as leaders work together on both sides of the aisle to accommodate the interests of their party colleagues.

Thus, remedial efforts to impose a time limitation on rollcall votes and a more systematic process for considering amendments, as well as other proposals that would impinge on the individual prerogatives of Senators, may not have their intended effect unless changes in the Senate's standing rules are accompanied by complementary changes in Senators' expectations. Recommendations for restructuring the committee system and its procedures must also be evaluated in light of the traditional norms, practices, and agreements that shape the Senate's approach to its work. Proposals that run afoul of them are unlikely to be supported, or effective if adopted, unless the climate for change is so pronounced and lasting that Members are willing to set aside short-term advantages in the interest of pursuing a new and presumably more effective way of conducting business in the Senate.

Conclusion

The cumulative effect of these Senate norms and practices has been to increase Senatorial frustration. Yet virtually every Senator has benefited from them in one way or another, at one time or another. It would be a rare Senator who has not done so—perhaps by urging that a rollcall vote be delayed or left open, or by offering a non-germane amendment, or by requesting a committee or subcommittee assignment in excess of the formal limits, or by placing a hold on some measure or nomination. As a practical matter, therefore, the Senate must recognize that its members will evaluate the proposals discussed in this report by asking whether the rules changes would benefit the Senate as an institution (or all Senators collectively) in ways that are clear and important enough to justify sacrificing some of the advantages and opportunities they now enjoy.

Senators also must consider the extent to which any proposed changes in Senate rules and practices are aimed at causes of problems and the extent to which they appear to address only symptoms. This does not mean that ameliorating symptoms is pointless; treating them can benefit Senators as individuals and the Senate as an institution. But the question remains whether proposed changes that would affect symptoms are likely to yield benefits that outweigh their costs. If their beneficial consequences would only be marginal, they could even have the ironic and unanticipated effect of adding to the Senate's existing frustration level.

SENATE REPORTS ON SENATE OPERATIONS

Since the mid-1970s, the Senate has created four groups to assess various aspects of Senate operations and make recommendations for improvements: the Culver Commission of 1975–1976, the Stevenson Committee of 1976–1977, the Pearson-Ribicoff Study Group of 1982–1983, and the Quayle Committee of 1984. Each effort approached its task differently, and each contributed in varying degree to the changes which have transformed the Senate into the institution it is today, while at the same time preserving its essential and unique character. Any consideration that Senators give in the near future to making changes in their institution should take account of the analyses and proposals of these groups. Their findings are summarized in the sections that follow, which also note some of the most significant changes in Senate rules and practices that have been related to the subjects of their recommendations.

As these summaries reveal, some of the same or similar proposals have been made to the Senate by two or more of the groups. More generally, there are themes that recur throughout many or all of their reports. For example, there has been a persistent interest in expanding the range and availability of information available to Senators, improving the cost-effectiveness of Senate operations and support services, and taking steps to increase public appreciation and esteem for the Senate as an institution. Unquestionably these are important matters which continue to deserve and receive the Senate's attention. But there are two other themes that, in this Committee's judgment, have been at the heart of these studies and their recommendations: first, the need to enhance the ability of Senators to plan their schedules and allocate their time; and second, the importance of improving the focus and timeliness of Senate policy deliberations.

In Part II of this report, the Committee offers further analyses of these issues, and certain proposals for addressing them, which are central to the ongoing questions of continuity and change in the Senate's procedures and practices.

COMMISSION ON THE OPERATION OF THE SENATE, OF 1975–1976

The Commission on the Operation of the Senate was created by S. Res. 227, adopted on July 29, 1975, to "make a comprehensive and impartial study of the organization of the Senate." Senator John Culver had advocated creation of such a group to review and recommend changes in Senate administration, management, legislative activities, information resources, and public communications. The Commission began its work in October 1975 and filed its final report on December 31, 1976. Chaired by former Senator Harold H. Hughes, the Commission's other members were distinguished private citizens. The Commission's final recommendations addressed five broad areas of concern: (1) organization and administration of the Senate; (2) the use of Senators' time; (3) technology and communication; (4) Senators' compensation, financial disclosure, and a code of ethics; and (5) foresight, oversight and the support agencies.

Organization and Administration of the Senate

The Commission recommended reorganization and consolidation of administrative operations under an *Administrator of the Senate*. These functions were, and remain, apportioned among the Secretary of the Senate, the Sergeant at Arms, the Committee on Rules and Administration, the Architect of the Capitol, and the President pro tempore. To oversee Senate administration, the Commission also recommended creating an Administrative Council, composed of the two party leaders and the chairman of the Committee on Rules and Administration, with the Secretary of the Senate serving as the Council's executive secretary.

After holding hearings on these recommendations in 1977 and 1978, this Committee directed the Senate's officers and the Architect to streamline their operations to eliminate duplication. In 1980, Committee staff developed specific recommendations in this area based on meetings with these officials. Regarding committee administration, the Commission recommended a *simplified system of committee budgeting and accounting*. Since the Commission's report, two measures (S. Res. 281 and S. 2018, 96th Congress) now provide for funding all expenditures of each Senate standing and select committee (except the Select Committee on Ethics) in a single resolution.

The Administrator of the Senate proposed by the Commission was to be responsible for *management, assignment, and control of space* in the entire Senate complex, and for an up-to-date occupancy inventory. Further, the use of space was to be improved by providing Senators with advisory design personnel and services. Functions not essential to chamber operations were to be relocated away from the Capitol, and those not essential to other Senate operations were to be moved from Senate office buildings. The Commission also proposed that each Senator be provided a personal office in the Capitol and that meeting rooms in the Capitol be generally available for Senate and conference committee use. Finally, the Commission recommended that the Senate increase its participation in planning for land use on Capitol Hill.

Since the Commission issued its recommendations, the Architect has further developed the master plan for the Capitol area, and many Senate offices have been relocated. The Hart Building has been completed and occupied and the old Immigration Building has been renovated. Several buildings, which had been used for Senate offices, including the old Carroll Arms Hotel and the Senate Courts apartment building, have been razed and replaced by parking lots. The Senate Computer Center also has moved to a larger facility on North Capitol Street.

The Use of Senators' Time

The Commission made a series of proposals to facilitate *more effective use of Senators' time.* Specifically, it recommended: (1) that certain days of the week be devoted to floor sessions only and other days to committee activities only; (2) that early in the session a schedule of debates on subjects of major national interest be established (subsequently also proposed in the Pearson-Ribicoff report); and (3) that the Senate continue to schedule annually at least six periods of no less than a week each for Senators to fulfill State and other obligations outside of Washington. It also proposed that someone other than a Senator be appointed to preside during routine Senate floor sessions. While most of these proposals have not received action, the Senate has begun to implement a program of three five-day work weeks in Washington, followed by a week out of session, in order to permit Senators to arrange their schedules more predictably.

Regarding committee operations, the Commission proposed a computerized clearinghouse for scheduling committee meetings, a recommendation similar to one by the Stevenson Committee. The Rules and Administration Committee has since authorized the Office of the Senate Daily Digest to compile information on the time, place, and purpose of committee sessions, including changes and cancellations. This information is published in the Daily Digest of the Congressional Record on Mondays and Wednesdays and maintained in computer files. These actions, however, have not ended Senators' concerns about committee meeting conflicts.

Finally, the Commission recommended that the Senate organize itself before the beginning of each Congress; that Senators be assigned, and moved in, to new offices no later than the end of the first month of a new session; that Senators-elect receive administrative support; and that they and their staff be provided orientation programs before they take office. Since the Commission issued its report, the Senate has provided Senators-elect and their staffs with orientation programs on office management and administration. In addition, programs on policy issues and on Senate procedures have been developed.

Technology and Communications

The Commission recommended broadly that the Senate *develop automated systems* for general Senate management and administration, individual office operations, legislative information, and policy analysis.

The Senate has since developed automated systems in several areas. The inventory of Senate office equipment is now assisted by an automated on-line system for all non-computer equipment. Similarly, an on-line system aids in allocating parking spaces. Both these systems are managed by the Office of the Sergeant at Arms. Also, the Senate Finance Office has automated many of its operations. Automated systems now enable GPO to print uniform committee calendars; as well, it uses automated text processing and electronic composition to print the Congressional Record, bill drafts, and hearing transcripts. The Senate also provides a number of automated services for budget and policy analysis and office management. Individual Senate offices and Senate-wide adminstrative operations are both assisted. Within the last year, the Rules and Administration Committee has established the Executive Advisory Committee to act as a steering committee for Senate automation policy.

The Commission also recommended that the Senate experiment with continuous summaries of floor proceedings transmitted to electronic displays in Senators' offices, computer displays of amendments being considered on the floor, and closed circuit televised proceedings. Subsequently, the Senate has increased on-line access to information about Senate floor proceedings. In 1985, the Senate also approved the closed circuit and temporary broadcasting of Senate floor proceedings (S. Res. 28, 99th Congress); then, in 1986, it made these broadcasts permanent and available to broadcasting organizations for non-commercial use.

With respect to public communications, the Commission proposed holding formal briefings for the news media. A "central information staff" would monitor, coordinate, and assist with Senate briefings, and provide summaries and background analyses on major issues. Since the Commission's report, the Senate has created a media room in the Hart Senate office building that is equipped for television broadcasting and other media activities.

Senators' Compensation, Financial Disclosure and a Code of Ethics

The Commission recommended *increasing the annual compensation of Senators, ending honoraria income, and establishing a "clear and comprehensive code of ethics."* These issues have been the subject of continuing review and debate since the Commission's report. The Senate subsequently adopted the provisions now in Senate Rules XXXIV through XLII, which address issues of official conduct. These rules deal with public financial disclosure, the treatment of gifts, conflicts of interest, a prohibition on unofficial office accounts, foreign travel, the franking privilege, use of radio and television studios, political fund activities, and employment practices. Title I of the 1978 Ethics in Government Act, incorporated by reference in Senate Rule XXXIV, revised financial disclosure requirements.

In April 1988, the Senate also approved S. 237, which would prohibit Members of Congress, certain senior congressional staff, and other high-ranking Government officials from representing or advising a foreign entity for a prescribed period of time after leaving Government service. The House has not yet acted on this measure.

Foresight, Oversight and the Utilization of Support Agencies

Finally, the Commission recommended that *Senate capability to perform oversight and foresight be strengthened.* It urged committees to plan, schedule, provide advance notice of, and report to the Senate on such activities. It suggested that the Senate secure increased GAO assistance in the conduct of oversight, establish oversight training programs for Senate staff, and encourage the creation of interdisciplinary work groups. Finally, it proposed establishing a Senate-wide system to collect information from individual Senate offices, e.g., from casework, that could identify areas requiring more oversight. The Senate has addressed some of these recommendations. GAO and CRS have developed oversight training for Senate staff; OTA provides a form of foresight analysis. The emergence of informal groups and caucuses also has assisted the Senate and its committees in foresight, oversight, and other policy development activities.

The Commission also recommended that the Senate *enhance its supervision of congressional support agencies*—the Congressional Budget Office, the Congressional Research Service, the General Accounting Office, and the Office of Technology Assessment—to improve their administration, ensure cooperation among them, and improve their information and analytic services. Since the Commission's report, the agencies have enhanced and expanded programs to assist Senators and staff with policy analysis. In addition, support agencies now provide programs on public policy issues, the legislative and budget processes, the conduct of oversight, and congressional office activities.

THE TEMPORARY SELECT COMMITTEE TO STUDY THE SENATE COMMITTEE SYSTEM, OF 1976–1977

On March 31, 1976, the Senate established a bipartisan, 12-member Temporary Select Committee to Study the Senate Committee System (commonly called the Stevenson Committee after its chairman, Senator Adlai Stevenson III). Eight months later, the Select Committee issued its first and principal report, with recommendations for revamping the Senate's standing committee system. Because the Stevenson Committee lacked legislative authority, its committee system proposals were submitted as S. Res. 4 of the 95th Congress, and referred to the Committee on Rules and Administration, which conducted hearings and mark-ups and then reported the resolution with a complete substitute. The Senate amended the resolution and adopted it on February 4, 1977, by an 89–1 vote. Thereafter, the Select Committee issued a second report containing recommendations on a variety of other subjects.

The brief discussion that follows highlights the major provisions of S. Res. 4 as adopted by the Senate. Other proposals of the Select Committee, contained in its second report, also are identified, along with subsequent related actions by the Senate.

Senate Resolution 4: Committee Structure and Assignments

Not since passage of the Legislative Reorganization Act of 1946 has the Senate adopted such a major restructuring of its committee system.

Jurisdictional change was, in large measure, the core of S. Res. 4. *Committee jurisdictions were redefined and consolidated* in several broad subtantive areas in order to promote more comprehensive policy-making and to reflect contemporary concerns. In turn this led to the renaming of some committees. Major subject areas which had been fragmented, such as international economic policy, human resources, energy, environment, and governmental affairs, were realigned. Jurisdictional realignment also resulted in a *reduction in the number of committees,* including the elimination of three standing committees (Aeronautical and Space Sciences, District of Columbia, and Post Office), one select committee (Nutrition), and three joint committees (Defense Production, Atomic Energy, and Congressional Operations).

Today's committee system largely reflects S. Res. 4, with a few exceptions. One select panel expected to be phased out has become permanent (Indian Affairs); another select committee has been transformed into a standing committee (Small Business). While jurisdictional consolidation probably has reduced "turf" battles, it is not likely that any jurisdictional plan can entirely eliminate policy overlap and competition. S. Res. 4 also assigned *comprehensive policy oversight* responsibilities to several standing committees.

This new authority enables these committees to review comprehensively policy areas that cut across several committees' legislative jurisdictions.

Another fundamental goal of S. Res. 4 was to *reduce the number of committee and subcommittee assignments per Senator.* The objective of the reduction was twofold: to promote an equitable burden of work among all Senators and to insure that all Senators receive significant assignments. S. Res. 4 implicitly established three classes of committees for assignment purposes: (1) all Senators would be required to serve on two, but not more than two, Class A standing committees (paragraph 2 of Rule XXV); (2) Senators could serve on only one Class B committee (paragraphs 3 (a) and (b) of Rule XXV); and (3) Senators might serve, subject to certain restrictions, on any number of Class C committees (paragraph 3(c) of Rule XXV). Further, Senators could serve on no more than three subcommittees of each Class A committee (except Appropriations, which had no limitations), and on no more than two subcommittees of each Class B panel. Subcommittee limitations did not apply to Class C committees.[2] S. Res. 4 also stipulated the sizes of committees, but permitted the joint party leadership to authorize temporary increases to assure majority party control.

S. Res. 4 expected Senators to serve on an average of 11 panels (two Class A committees, three subcommittees on each of those panels, one Class B committee, and two subcommittees thereof), down from the preceding period when Senators averaged 18 assignments, with some serving on 30 or more panels.[3] However, pressure to increase assignments and sizes began as soon as S. Res. 4 was adopted and continues to this day, resulting in numerous exceptions to the limitations, accounting in part for the creation of another Temporary Select Committee (the Quayle Committee) in 1984.

To reduce *extra committee assignments,* S. Res. 4 struck from Senate rules a provision requiring three members from each of eight named authorizing committees to serve ex officio on the Appropriations Committee when it considered the appropriations bill relevant to that authorizing committee's jurisdiction. In addition, this provision had permitted one member of each of these authorizing committees to serve on the conference dealing with the related appropriations bill. Today, there are no formal ex officio members of Appropriations. However, the Armed Services Committee and the Appropriations Committee, for example, have a "Memorandum of Agreement" that permits the leaders of each panel to participate in the other's deliberations. Senators who serve on the Appropriations Committee also still serve on at least one authorizing committee, thereby continuing a linkage between the committees.

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[2] Senate Rule XXV lists "A" committees as Agriculture, Nutrition, and Forestry; Appropriations; Armed Services; Banking, Housing, and Urban Affairs; Commerce, Science and Transportation; Energy and Natural Resources; Environment and Public Works; Finance; Foreign Relations; Governmental Affairs; Judiciary; Labor and Human Resources. It lists "B" committees as Budget; Rules and Administration; Veterans' Affairs; Small Business; Aging; Intelligence; and Joint Economic. "C" committees are Ethics; Indian Affairs; and Joint Taxation. Committees not listed in this Rule are "C" Committees.

[3] In the 100th Congress, the average is almost exactly 11, but there is considerable variation in the number of assignments among Senators.

S. Res. 4 included a "sense of the Senate" provision that urged committees to *democratize subcommittee assignments* by ensuring that no Senator would be given a second subcommittee assignment until every Senator, in order of seniority, had received one, and that no Senator would receive a third assignment until all committee members had been given two. Several Senate committees include this provision in their committee rules, and other panels informally observe the same practice.

S. Res. 4 also established *chairmanship limitations.* Senators were prohibited from serving as chairman of more than one committee (standing, select, special, or joint), except that a Member who headed a standing committee could also chair a joint committee that related to the standing committee's jurisdiction. Senators could also chair no more than one subcommittee per committee. However, a full committee chairman of a Class A panel may only head one subcommittee in the Class A grouping. The purposes of these limitations are to disperse leadership among Senators and, indirectly, to limit the number of subcommittees per standing committee. There have been relatively few departures from these chairmanship limitations.

The *number of subcommittees* also was reduced during the post S. Res. 4 period: from 140 subcommittees of standing committees during the 94th Congress to 101 subcommittees during the 95th Congress, a reduction of 28 percent. Today, there are 85 subcommittees of standing committees, a 39 percent drop since the Senate adopted S. Res. 4; some of this reduction may be associated with the subsequent Quayle Committee report.

Senate Resolution 4: Committee Operations and Procedures

To *reduce committee meeting conflicts,* S. Res. 4 encouraged committees to meet within two designated time periods—from early morning to 11 a.m. and from 11 a.m. to 2 p.m.—in the hope that committees could work out scheduling conflicts. S. Res. 4 also directed that the Rules and Administration Committee, in consultation with the joint leadership, establish a computerized scheduling service for all meetings and hearings of committees, subcommittees, and conference committees. Committees would then have a relatively easy way to find out when other panels had scheduled hearings and meetings. This Committee authorized the Office of the Senate Daily Digest to compile information on the time, place, and purpose of prospective committee sessions, including changes and cancellations. This information is published in the Daily Digest of the Congressional Record on Mondays and Wednesdays and is maintained in computer files. However, Senators still indicate that committee meeting conflicts are commonplace.

To *minimize conflicts between Senate sessions and committees,* S. Res. 4 prohibited most committees from meeting after the first two hours of a floor session, or in no case after 2 p.m. when the Senate is in session, unless consent is obtained from the joint leadership. It is not uncommon for the Majority Leader to ask and receive unanimous consent for committees and subcommittees to meet during sessions of the Senate. In fact, the Committee has encountered strong sentiment among Senators that conflicts between committee and floor sessions remain a serious problem that merits further joint exploration by the Senate party and committee leaders.

When the Senate approved S. Res. 4, it agreed to *the reallocation of committee staff resources between the parties.* A majority of the minority members on any committee may request at least one-third of the committee's staff funds, excluding funds for nondesignated, or nonpartisan, personnel. Committees were granted a four-year transition period to bring funding allocations to the stipulated one-third level. In addition, S. Res. 4 directed that the minority on committees is to receive proportionate shares of space, equipment and facilities. In February 1981, this Committee found (S. Rept. No. 97-55) that "all Senate committees reported that at least one-third of staff funds not allocated to non-designated personnel were allocated to the minority." The absence of challenges from the minority party appears to indicate that there has been continued conformity with these staffing requirements.

In addition, S. Res. 4 directed the Committee on Rules and Administration, in consultation with joint leadership, to *review, on a continuing basis, the committee system and Senate rules.* The Committee meets this responsibility in a variety of ways, most of which do not involve holding public meetings and publishing formal documents. In 1981, however, the Committee issued a report (S. Rept. No. 97-55) on its continuing review function, in which it noted several Committee initiatives, such as a major revision in committee funding procedures and the first recodification of Senate rules in almost a century. The Committee performs the bulk of its public continuing review activities when it annually reviews committees' funding requests.

Other Stevenson Committee Recommendations [4]

In its Second Report, the Select Committee made recommendations, or suggested additional studies, in several areas. Some of its proposals have been acted upon; others remain as concepts for future consideration.

The Select Committee proposed *severance pay* for staff displaced by committee reorganization and unable to find comparable employment. The Senate adopted resolutions that provided severance pay to eligible staff displaced because of S. Res. 4, and has provided for staff severance pay on at least two occasions since.

The Select Committee recommended a *simpler system for funding committee staff and activities.* It proposed unified "inquiries and investigations" resolutions to authorize all staffing and operating funds for standing and select committees. In 1980, the Senate agreed to simplify the procedures for allocating funds to these committees. Since 1981, committees (except Ethics) receive all their funds in one Senate resolution.

In addition, the Select Committee proposed creation of a central *public information office,* under joint leadership supervision, to provide information on Senate activities to the press and public.

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[4] As with S. Res. 4, this survey of other proposals covers many, but not all, of the Select Committee's additional recommendations.

Enhanced media facilities in the Capitol and the Hart building have contributed to the same goal by other means.

The Select Committee also proposed that the Senate establish a *uniform automated document control and microfilm records system* applicable to all committees. Such a Senate-wide system has not been established, but some committees have acted on their own to create an automated recordkeeping system. Each committee, the Select Committee suggested, should publish a tentative *calendar of anticipated activities* semi-annually, with all such committee calendars to be published together in the Congressional Record. While there is no semi-annual presentation of consolidated committee calendars of activities, committees do identify their proposed meetings and hearings in the Daily Digest, and some informally provide advance notice of their anticipated schedule.

Finally, the Select Committee recommended that committees change their rules to permit designated *staff aides to conduct certain non-legislative hearings* and receive testimony in the absence of Senators. Some committee rules authorize certain staff members to question witnesses, but no committee has adopted rules which formally permit staff to conduct hearings without committee members present.

THE STUDY GROUP ON SENATE PRACTICES AND PROCEDURES, OF 1982–1983

The findings of the Study Group on Senate Practices and Procedures, also known as the Pearson-Ribicoff study, were issued on April 5, 1983. The Study Group, consisting of former Senators James B. Pearson and Abraham A. Ribicoff, had been established on May 11, 1982, by adoption of S. Res. 392, in response to the frustrations expressed by many Senators with what they viewed as inefficiencies in Senate operations.

The Study Group's recommendations fall into four major categories: party leadership and agenda setting; chamber operations and floor procedures; committee operations; and the congressional budget process. Its proposals were the subject of a hearing by the Rules and Administration Committee on May 9, 1983. The Senate took no further formal action on the Study Group proposals as a whole. However, there have been subsequent Senate actions related to specific issues raised by the Study Group. A summary of its recommendations and a description of relevant Senate actions follow.

Party Leadership and Agenda Setting

The Study Group sought to strengthen the ability of Senate leaders to control the floor agenda and the Senate's schedule. It recommended that the Senate leadership, in coordination with House leaders, *establish an annual agenda* of major legislative issues for each Congressional session. The agenda would be approved by adoption in both chambers of a concurrent resolution, and could thereafter be changed in the Senate only by more than a simple majority vote. Senate committees could still hold hearings and report legislation on any subject within their jurisdictions, but a ⅔ vote of the Senate would be needed for the chamber to take up a reported measure outside the scope of the established legislative agenda.

This Committee recognizes that there remain significant questions about how the Senate would devise, adopt, and enforce such an agenda. Nonetheless, the Committee supports the goal of developing a planned and predictable floor program in the Senate for each year, and urges the leaders of both parties to explore the means for developing such an agenda. The Committee also sympathizes with the Study Group's recommendation that the Standing Rules be amended to prohibit the consideration of any controversial matter more than once in the same calendar year, unless the Senate chose to do so by either a ⅗ or ⅔ vote. Senators frequently have complained about having to cast repetitive votes on the same issue, but this Committee has yet to be convinced that the Study Group's proposal would be workable in practice. However, one way for the Senate to minimize the problem would be to implement one or more of the ideas discussed below for simplifying and streamlining the Senate's authorization, appropriations, and budget process.

The Study Group also recommended that the Senate leadership *schedule floor debates on major issues* once or twice each week for a period of two or three hours each time, and that these debates be broadcast. Instead, the Senate adopted S. Res. 28, on July 29, 1986, to provide for live unedited radio and television broadcast coverage of its floor proceedings in their entirety.

The Study Group further proposed that the Senate leadership *establish a schedule and program* one week in advance for those weeks the Senate is in session. In an attempt to address the issue of scheduling, Majority Leader Byrd announced on December 8, 1987, that the Senate would not be in session every fourth week in 1988, and that during the weeks in session, the Senate would meet Monday through Friday. The members of this Committee believe that this has been a useful innovation which has allowed Senators to arrange their schedules with greater confidence and to spend valuable time with their constituents. The Committee also recognizes, however, that the Senate will be able to adhere to this practice only if Senators commit themselves to being present and ready to transact business on the days the Senate is scheduled to be in session.

The Senate leadership was also urged by the Study Group to *recess more frequently* during the course of the day, subject to the call of the Chair, so that Senators could hold discussions off the floor aimed at expediting Senate floor activity. Relatedly, the Study Group proposed to grant enhanced authority to the Presiding Officer to count to determine the presence of a quorum. Although no procedural changes have been made formally, during the 100th Congress the Majority Leader has appeared to move, more frequently than in the past, to recess the Senate to a time certain on the same day as an alternative to suggesting the absence of a quorum. While this Committee appreciates that quorum calls often allow Senators to resolve procedural and substantive issues more easily than they could under the formal rules of debate, the practice is subject to abuse when Senators expect floor proceedings to be suspended by a quorum call until it is convenient for them to come to the floor. This is one of the problems, that is unlikely to be solved by a change in the Standing Rules; instead, it can be resolved only by Senators becoming more sensitive and responsive to the interests of their colleagues and the needs of the institution.

The Study Group recommended that the party leaders *discourage requests for roll call votes* on marginal issues. Although no systematic action has been taken on this proposal, Majority Leader Byrd has recently taken a related action by setting a time limit, usually 15 minutes, for some votes. One proposal, S. Res. 276, would impose a strict 15-minute limit on all roll call votes. The Committee believes that the Senate is making progress to control the length of votes. If Senators come to expect that each vote will be limited to 15 minutes, except under exceptional circumstances, there may be no need to amend the rules to impose a seemingly rigid requirement that may prove difficult to enforce in highly charged situations.

Finally, to replace the rotation of majority party Senators in the Chair, the Study Group recommended that the Senate elect a Senator to the post of *Deputy President pro tempore* for the primary purpose of performing the duties of the chair. On January 28, 1987, the Senate reconstituted the position of Deputy President pro tempore (S. Res. 90), and elected Senator George Mitchell to the post (S. Res. 91), a position held in the past by Senators Lee Metcalf and Hubert Humphrey. However, no job responsibilities were stipulated, and Senator Mitchell has not served in the role of the more or less permanent Presiding Officer envisioned by the Study Group.

Chamber Operations and Floor Procedures

The Study Group recommended that the Senate return to certain established procedures. For example, it suggested that, immediately following "leader time," the Senate adhere to the morning business and morning hour procedures stipulated in existing rules. Its report also called for each party to appoint a Calendar Committee to implement the existing but dormant procedure for considering bills to which there is no objection. Finally, it called for enforcement of the "Pastore Rule" (Rule XIX, paragraph 1(b)), which requires that debate be germane to the pending business for a three-hour period at the beginning of each new day of session. The Committee suggests that the party leaders explore the merits and feasibility of these proposals.

The Study Group also suggested several additions to Senate rules and practices in order to *encourage more efficient debate procedures.* For example, it recommended that Senators not be allowed to make non-germane remarks "except at the end of each day's business," nor to read speeches in their entirety. In 1986, in an effort to reduce the floor time consumed by non-germane remarks, then Majority Leader Dole decreased the length of special order speeches at the beginning of a day's session from 15 minutes each to 5 minutes each. During the 100th Congress, Majority Leader Byrd has encouraged 5 minute speeches "as in morning business" spread throughout the day, instead of having special order speeches at the beginning of each day. Also, it is not uncommon for Senators to summarize their statements and then insert them in the Record as if spoken in full.

In order to *expedite raising measures for floor consideration,* the Study Group recommended that the leadership cease honoring "holds" and that debate be limited on the motion to proceed to consideration of a measure. Recent Majority Leaders have reserved the right not to honor requests for holds. Several proposals to limit debate on the motion to proceed have been offered since 1983, including one by the Quayle Committee, although no change has been adopted. Most recently, S. Res. 275 was submitted to limit such debate to one hour, while S. Res. 308 and S. Res. 309 would limit debate on the motion to two hours. Conversely, S. Res. 107 would expand opportunities for debate on the motion to proceed. Limiting debate on the motion to proceed is an issue to which the Committee returns in a later section of this report.

The Study Group offered several changes in the consideration of *Senate floor amendments.* First, it suggested creating a motion to mandate germaneness of amendments to a pending measure, requiring a $\frac{3}{5}$ vote for adoption. Second, it recommended eliminating the "defense of germaneness" for amendments to a general appropriations bill, unless the bill already contains House language addressing the subject. Several proposals regarding the germaneness of amendments have been offered since 1983, although no change has been adopted. Submitted during the 100th Congress have been S. Res. 27 and S. Res. 41, to provide for a privileged motion to require germaneness of amendments, and S. Res. 26 and S. Res. 42, to limit the use of the defense of germaneness during the consideration of a general appropriations bill. The Committee also returns to these proposals later in this report.

Third, the Study Group recommended that all amendments submitted for printing contain a statement of their purpose, and that all major amendments be printed a day before being considered. Fourth, it suggested that any major amendment modified during its consideration be made available in written form prior to a vote. While the Senate has not taken any action on these proposals, in a somewhat related development, then Majority Leader Baker announced on April 20, 1983, that, in order to save printing costs, amendments submitted for printing would no longer be printed as separate documents, but would be printed in the Congressional Record instead. Finally, the Study Group suggested that any amendment appropriately offered be allowed at least ten minutes of debate, regardless of any binding procedures governing floor consideration, e.g. "fast-track" procedures or unanimous consent agreements. No action to this effect has occurred.

The Study Group also recommended *revising the cloture rule* to discourage post-cloture filibusters. It suggested that once cloture has been invoked, no Senator, except the floor leaders and the floor managers, be allowed to offer more than two amendments, and that no amendment be subject to division. No proposal to either effect has been submitted. The Senate has made one major revision to post-cloture procedures since 1983. On February 26, 1986, it voted to reduce the post-cloture period from 100 hours to 30 hours. This change was part of S. Res. 28, the resolution which authorized the televising of Senate floor proceedings. During the 100th Congress, several measures to expedite post-cloture procedures have been submitted: for example, S. Res. 24 and S. Res. 44, affecting amendments in the nature of substitutes under cloture; S. Res. 25 and S. Res. 43, requiring a $\frac{3}{5}$ vote to overturn a ruling of the Chair on any question of germaneness of amendments under cloture; and S. Res. 28 and S. Res. 45, waiving the reading of all amendments called up under cloture. The Committee believes that these proposals could clarify how the Senate is to proceed under Rule XXII and preserve the integrity of the cloture procedure.

Committee Operations

The Study Group recommended that the Senate *consolidate its committees into fewer units, with fewer committee assignments per Senator.* Seven standing, select, and special committees were slated for merger, reducing the total number of Senate committees to thirteen. All joint committees were to terminate, with their Senate functions absorbed by standing committees with the appropriate legislative jurisdiction. The Study Group further proposed that Senators be limited to service on three committees—one from each of three new categories named in the report.

On related matters, the Study Group proposed an *automatic sequential referral* to the Committee on Rules and Administration of any measure affecting Senate procedure reported by another Senate committee. Its report also proposed *eliminating staffed subcommittees* and prohibiting any "standing subcommittees." Subcommittees would be limited to the conduct of hearings, investigations, and the compilation of data. Finally, the Study Group suggested that, after Senate passage of a measure, committee chairmen publish within five days *a summary of the differences* between the committee-reported version of the measure and the version passed by the Senate.

Since the Study Group's report was issued, several changes to the committee system have occurred. Some relate to the recommendations, discussed below, of the Quayle Committee. In addition, the Senate in 1984 redesignated the Select Committee on Indian Affairs as a permanent select committee. Although no action has been taken to require automatic sequential referral of measures affecting the Senate's rules, such referrals are routinely achieved by unanimous consent. In May 1988, the Committee on Rules and Administration held a hearing on S. Res. 260, submitted by Senators Inouye and Kassebaum, proposing significant changes in the Senate committee system, which are discussed below.

Congressional Budget Process

The Study Group sought to *"simplify the budget process."* It proposed abolishing the Budget Committee and shifting its responsibilities to two subcommittees, one of the Appropriations Committee and one of the Finance Committee. The Study Group also recommended adopting a two-year budget and appropriations cycle.

Although changes have been made to the congressional budget process since 1983, most notably by the Gramm-Rudman-Hollings Act and its successor, none have addressed the specific recommendations of the Study Group. However, several proposals have been submitted recently to institute biennial budgeting and several Senate committees have held hearings on these proposals. On May 17, 1985, the Senate agreed to S. Res. 159, to establish a select committee to study and make recommendations with respect to a two-year budget process, an action it later vitiated. On May 6, 1987, the Senate considered a "sense of the Congress" amendment that a biennial budget process should be established. The amendment, offered to the congressional budget resolution for 1988, H. Con. Res. 93, was tabled by a vote of 53–46. In the 100th Congress, several bills have been introduced to institute biennial budgeting, including S. 286, S. 416, S. 832, S. 1362, and S. 2478. The last of these measures was reported by the Governmental Affairs Committee on August 25, 1988, and then referred to the Budget Committee for thirty calendar days.

Although the Senate has taken no action on the Study Group's proposal to abolish the Budget Committee, S. Res. 260, as mentioned above, would transform the Budget Committee into a Committee on National Priorities, to be composed of leaders of other committees, and the authorizing and Appropriations committees would be consolidated into a revamped group of legislative committees. This Committee and the Committee on Governmental Affairs have held hearings on this resolution and other proposed modifications in the budget process.

The Committee discusses this most important and difficult subject at greater length in Part II of this report.

THE TEMPORARY SELECT COMMITTEE TO STUDY THE SENATE COMMITTEE SYSTEM, OF 1984

The Senate created a second Temporary Select Committee to Study the Senate Committee System (the Quayle Committee) on June 6, 1984, with the adoption of S. Res. 127 of the 98th Congress. The panel, consisting of six Republicans and six Democrats, was chaired by Senator Dan Quayle and co-chaired by Senator Wendell Ford, Chairman of the Committee on Rules and Administration, and was charged with conducting a thorough study of the Senate committee system. The Select Committee's final report of December 14, 1984, focused primarily on committee reforms, but also suggested several procedural changes (discussed below under "Other Recommendations"). The final report contained two draft resolutions incorporating the Select Committee's proposed committee reforms. With some revisions, these resolutions were submitted by Senators Quayle and Ford at the outset of the 99th Congress (S. Res. 31 and S. Con. Res. 5), and referred to the Rules and Administration Committee, which held a January 15, 1985, hearing on the resolutions and other proposals for Senate reform. At the start of the 99th Congress, several provisions of the resolutions were supported by the (majority) Republican Conference, but Conference approval alone was insufficient for their across-the board implementation.

Following is a summary of the Select Committee's recommendations, as set forth in its final report and as incorporated into S. Res. 31 and S. Con. Res. 5 (99th Congress), and a discussion of related actions the Senate has taken.

Committee and Subcommittee Assignments, Sizes, Number and Chairmanships

The core of the Select Committee's recommendations dealt with issues of committee and subcommittee assignments, sizes, numbers, and chairmanship reductions, and were aimed at lessening Senators' heavy workloads and conflicting time demands. These subjects had been addressed by the Stevenson Committee and the Rules and Administration Committee, and in S. Res. 4 adopted by the Senate on February 4, 1977. From the 95th Congress through the 98th Congress (1977–1984), however, the Senate had not consistently adhered to the S. Res. 4 requirements, in part prompting the formation of the Quayle Committee.

At the time of the Quayle Committee's recommendations, Senate Rule XXV limited Senators to service on two "A" and one "B" committees, as codified by S. Res. 4. The Quayle Committee proposed the *strict enforcement of these limitations and the elimination of all exceptions to them.* Implementing this proposal would require reductions in committee sizes, because fewer Senators could be assigned to each committee. The Select Committee proposed reducing "A" committee slots to a total of 200, and "B" slots to 97, including the Indian Affairs Committee. The Select Committee proposed to reclassify the latter Committee as a "B" rather than a "C" committee, because of its June 1984 conversion to a permanent select committee. However, the Senate has not taken this action. The proposed "B" committee total was based on the desire of only 97 Senators to serve on a "B" committee and on the Senate party ratio at the time. In the event that all 100 Senators were to seek a "B" committee assignment, a total of 103 "B" slots was suggested to protect majority control. Senators had no "C" committee service limitation, and the Select Committee did not propose one.

Notwithstanding the strict enforcement recommendation, the Senate has retained some of the existing exceptions to the two "A", one "B" committee assignment limitations, and has added new ones. At the outset of the 99th Congress, 14 Senators had more than two "A" assignments and 25 had more than one "B" assignment; these figures increased to 24 and 27 respectively at the outset of the 100th Congress. The Select Committee also suggested retaining provisions of Senate Rule XXV allowing the joint party leadership to increase temporarily the size of any standing committee by up to two members, and to make additional committee assignments to accord the majority party a majority of seats on all standing committees. It is not clear how many exceptions, if any, have been granted to assure majority party control.

The Senate Republican Conference agreed in principal to the two "A", one "B" proposal during a January 1985 meeting, but later agreed to establish 213 "A" slots. Then, when the Senate ultimately approved committee assignments for the 99th Congress, 214 "A" slots were created, down from 231 (as of the end of the 98th Congress). This figure increased to 224 at the beginning of the 100th Congress. At the start of the 99th and 100th Congresses, the Senate created 112 and 113 "B" slots respectively.

The Select Committee also recommended *limiting Senators to service on two subcommittees of each of their "A" and "B" committees* (except Appropriations), to reduce both the size of subcommittees and the number of panels on which Senators serve. The "B" committee recommendation was consistent with existing Senate rules. Instead, the subcommittee service maximum of three assignments per "A" committee remains unchanged. Relatedly, "A" and "B" committees (except Appropriations) were to be limited to a maximum of five subcommittees each. The Select Committee estimated that this reform would reduce the total number of "A" and "B" subcommittees from 110 to 80.

At the beginning of the 99th Congress, the Senate Republican Conference voted to limit each committee (except Appropriations) to five subcommittees, but not if that limit would deprive any subcommittee chair of his or her post. However, this decision was not binding on committees because Senate rules do not limit the number of subunits a committee may establish, except indirectly through subcommittee service limitations. Senate "A" and "B" committees, both standing and select, reduced their total number of subcommittees to 94 in the 99th Congress and then 93 in the 100th Congress.

The Quayle Committee proposed *limiting the maximum number of committees and subcommittees on which a Senator could serve* to 9 (except for Appropriations Committee members, who would be limited to 11). At the start of the 99th Congress, the Republican Conference adopted a resolution to limit Senators to service on a maximum of eight "A" units, i.e., committees and subcommittees, but this action was not reflected in a formal rules change. In the 99th and 100th Congresses, Senators served on an average of between 10 and 11 "A" and "B" units, a decrease of approximately one per Senator from the 98th Congress level.

In addition, the Select Committee sought to *limit to two the total number of "A" and "B" panels a Senator could chair.* Specifically, Senators chairing a full committee would be limited to one subcommittee chairmanship, and other Senators would be limited to a total of two. At the outset of the 99th Congress, the Republican Conference voted in favor of a two-chairmanship maximum, but this change was not implemented. Currently the two "A" and "B" commitee service limitations in Rule XXV restrict Senators to no more than three chairmanships. A Senator chairing a full "A" committee also may chair one "A" subcommittee and one "B" subcommittee, and a Senator chairing a full "B" committee may chair one subcommittee of each of his or her "A" committees. Other Senators may chair one subcommittee of each of their "A" and "B" committees. However, on several occasions, Senators have not been in compliance with these chairmanship limitations, generally because they have been granted an additional assignment.

Other Committee-related Recommendations

In view of the "important and time-consuming" administrative duties of party leaders, the Select Committee proposed that the *Majority and Minority Leaders not be counted for the purposes of determining a quorum* on committees on which they serve. For example, if both leaders were members of a 15-member committee, the quorum for ordering a matter reported would be 7, as if it were a 13-member committee. To avoid meeting conflicts, the Select Committee recommended that *committee chairman announcing mark-ups also be required to announce a list of committee members with other mark-ups scheduled for the same time.* In making this proposal, the Quayle Committee evidently hoped to encourage chairmen to consult the computerized scheduling system, with an eye towards avoiding such meeting conflicts. Neither the special quorum nor the mark-up announcement recommendation has been implemented.

The Select Committee also proposed creating two committees. The first, *a temporary Select Committee on the Two-Year Budget,* was to address Senate frustrations with the budget cycle. It was to study the feasibility of biennial budgeting and propose legislation to improve the budget process. The second, *a permanent Joint Committee on Intelligence Oversight,* was recommended for reviewing executive branch intelligence activities, in lieu of the House and Senate Select Committees on Intelligence. It was to have legislative jurisdiction and to be modeled after the Joint Committee on Atomic Energy.

In the 100th Congress, two measures to create a joint intelligence panel (S. Con. Res. 25 and S. 2113) are before this Committee. With respect to the budget panel, as previously noted, the Senate agreed to S. Res. 159 (99th Congress), to establish a select committee to study and make recommendations with respect to a two-year budget, but subsequently this action was vitiated. In the 100th Congress, at least four Senate measures to establish a biennial budget cycle (S. 286, S. 416, S. 832, and S. 1362) have been introduced.

The Select Committee accepted the likelihood that, whatever the Senate's committee jurisdictions, a complex and lengthy bill reported by one committee might contain provisions within the purview of another. Accordingly, it did not attempt to redraw the committee boundaries that had been revised in 1977 by S. Res. 4 (95th Congress). Instead, the Quayle Committee proposed an amendment to Senate rules requiring *reported bills to be sequentially referred to committees with jurisdiction over any of its provisions.* Similarly, sequential referral was to apply to appropriations bills reported from the Appropriations Committee with legislative amendments. The Select Committee felt that without such sequential referrals, the authorizing committees would be undermined. Instead, the Senate continues to rely on unanimous consent agreements to make necessary arrangements for sequential referrals.

Other Recommendations

Although the Select Committee was mandated to study the committee system, it believed that problems with that aspect of the Senate could not be adequately addressed unless the entire institution were studied. Thus, the Quayle Committee's studies and recommendations also addressed other issues—in particular, the germaneness of amendments, and filibusters and cloture.

The Select Committee accorded non-germane amendments a legitimate place in Senate procedure, but sought to keep them from impeding floor action on essential legislation. To balance these interests, the panel proposed *a new "germaneness motion",* by which 60 percent of the Senators present and voting could prohibit non-germane amendments to a measure. The Select Committee also sought to require a similar majority to overturn any ruling of the chair that an amendment is non-germane. In the 99th Congress, language providing for a motion to require germaneness was stricken from S. Res. 28, which authorized live broadcasts of Senate floor proceedings to the public. And in the 100th Congress, pertinent proposals include S. Res. 27 (and S. Res. 41) provide for a new germaneness motion and require more than a simple majority to overturn the Presiding Officer's rulings on germaneness. Such proposals are considered in Part II of this report.

Finally, the Select Committee sought a more workable "balance between unlimited debate and the [early and frequent] invocation of cloture." It sought to allow extended debate only on substantive questions, and so endorsed a *limit of two hours for debating any motion to proceed* that currently is debatable. The panel also favored making cloture more difficult to invoke but more effective once invoked; however, it presented no specific cloture rule changes.

One provision of S. Res. 28 (99th Congress) reduced the total time for consideration under cloture from 100 to 30 hours. This change became permanent on July 29, 1986, with the Senate decision to continue live television and radio broadcasts of its floor proceedings. No other rules changes regarding debate and cloture have been made since then, but several have been suggested. Also during debate on S. Res. 28, the Senate considered but failed to approve a provision to impose a two hour debate limit on the motion to proceed. In the 100th Congress, there are proposals that would limit debate on this motion under most circumstances—e.g., S. Res. 275, limiting debate to one hour, and S. Res. 308 and S. Res. 309, limiting debate to two hours. Conversely, several 100th Congress proposals, e.g., S. Res. 107, S. Res. 124, and S. Res. 133, would expand opportunities for debate on motions to proceed. Also in the 100th Congress, several measures to expedite procedures under cloture have been proposed.

PART II.—ANALYSIS OF SELECTED ISSUES

SCHEDULING BUSINESS ON THE SENATE FLOOR

Strategic and Accommodative Delay

The Senate has long been concerned with issues of delay in its proceedings and unpredictability in its scheduling. These concerns result in part from Senate rules that permit extended debate and non-germane amendments under most circumstances, but also from the Senate's well-entrenched practice, noted earlier, of accommodating the interests and preferences of individual Senators whenever possible. In the past, complaints commonly focused on "strategic delay"—dilatory tactics used to achieve policy ends. Today's criticisms more often address "accommodative delay," arising from attempts to accommodate the competing preferences and requests of individual Senators. This discussion centers on the evaluation of current proposals to deal with three sources of delay, both strategic and accommodative: (1) rollcall votes extending beyond the 15 minutes prescribed by standing order, (2) the lack of predictability in the Senate's amendment process, and (3) extended debate and other tactics used to prolong consideration of motions to proceed to consider measures.

Contexts and Approaches

All the proposals discussed in this section have been advocated as ways of reducing delay and enhancing the leadership's ability to schedule Senate business in an orderly and predictable way. They also may bear on such problems as low attendance, increased workload pressures, and time conflicts for Senators, as well as what many Senators believe to be a decline in the deliberative character of Senate proceedings. Underlying such lines of argument, of course, is the assumption that such problems can or should be addressed effectively through changes in the Standing Rules.

The Senate's work style today accepts that most Senators usually will not be present on the floor. This presumption is reflected not only in the frequency of quorum calls and other forms of accommodative delay, but also in the expectation that party leaders will protect the interests of absent Senators. Low attendance naturally fosters the need to extend rollcall votes and to use quorum calls to suspend proceedings while awaiting the arrival of Senators on the floor. And in turn, the expectation of delay reduces Senators' incentives to attend. Moreover, Senators have many other responsibilities which they cannot fulfill while on the floor—attendance at committee hearings and meetings, for example, which sometimes conflict with floor sessions. So by themselves, rules changes that pull Senators toward the floor probably would be detrimental to the demands and benefits of committee work. In short, rules that make it more costly or risky for Senators to be away from the floor would be a mixed blessing.

The delays and low attendance that now characterize the Senate's floor proceedings undoubtedly contribute to complaints about the dearth of true deliberation taking place there. If most Senators were on the floor more often, they would have more opportunities to engage in deliberation, and thereby affect the Senate's decisions. Today, Senators may reasonably ask whether making a floor speech to a largely empty chamber is the most effective and productive use of their time. If their colleagues were present, their arguments might make more of a difference. Also, the interchange and interaction that comes with deliberation are likely to promote comity and accommodation. And if the floor became more of a focal point for Senators and the Senate's decisions, everyone concerned would have more of an interest in arranging and adhering to an orderly schedule of business.

On the other hand, if the Senate floor now is not a place for persuasion through debate, it is not surprising that Senators are disposed to resort instead to obstruction to promote their legislative goals. Obstruction through strategic delay makes it more difficult to maintain an orderly schedule. So the problem can feed on itself, as delays and unpredictability in scheduling make Senators doubt the wisdom of attending and deliberating with each other.

When obstruction supplants deliberation, the Senate's rules to facilitate debate are easily adapted to strategic delay. One possible response is to make compensating changes in the Standing Rules or the Senate's precedents. In reaction to the rise of the "post-cloture filibuster," for example, the Senate established a precedent under which the Presiding Officer may take the initiative under cloture to rule amendments non-germane or dilatory. The disadvantage of this approach, however, is that procedures intended to respond to obstruction could be used instead by a determined and inpatient majority to limit or foreclose deliberation. As Senators evaluate possible rules changes, therefore, they must weigh the importance of preserving the unique nature of the Senate in the face of growing pressures for efficiency.

In light of these considerations, the most effective way of addressing many of the problems discussed in this report may not be through amendments to the Standing Rules, but through changes in the norms and incentives which guide Senators. At a minimum, the effectiveness of some rules changes undoubtedly would be enhanced if they were accompanied by changes in Senators' attitudes and expectations.

Especially in attacking accommodative delays, for example, all Senators but especially the party leaders could place much more emphasis on norms promoting courtesy to Senators who are present, not those who are absent. Altering group norms can be an effective way of changing behavior. On the other hand, changing norms generally requires great time and effort, and cannot be legislated. Such changes are most likely to occur if Senators see individual as well as collective benefits resulting from actions taken to reduce accommodative delays. Such benefits could occur if the proposed changes actually reduced delays and increased predictability enough to improve Senators' ability to carry out their work activities. Thus, clear personal rewards would flow from institutional change.

Finally, the possible approaches to these problems are not limited to changes in attitudes and new rules flatly prohibiting certain actions. It also may be possible to develop rules and practices that permit the Senate to impose limitations, if and when appropriate, by vote on a case-by-case basis. This is the approach embodied, for example, in the proposals to allow the Senate to vote to exclude non-germane amendments to a particular measure. By encouraging Senators to reach accommodations on when and how to apply such limitations, or to supersede them by unanimous consent, rules changes of this kind may simultaneously foster expeditious action and also promote deliberation and comity.

Time Limit on Rollcall Votes

One frequent complaint has been the length of rollcall votes, as votes often have remained open longer than the 15 minutes provided by standing order. Delays of this sort may occur for either strategic or accommodative reasons. Leaders may hold a rollcall open while locating needed additional votes. More commonly, however, such delays occur because Senators who wish to vote, even though their votes would not affect the outcome, have not yet reached the chamber.

Clearly, the standing order to limit the time for rollcalls, which the Senate adopts at the beginning of each Congress, has not eliminated this problem. As noted in Part I of this report, the Majority Leader now often alerts Senators to the length of rollcall votes that are about to begin, limiting them to 15 minutes each whenever possible. It remains open to question, however, how well the Senate will be able to maintain this practice unless it can be enforced effectively under the Standing Rules. S. Res. 276 would address this issue, therefore, by mandating an end to rollcall votes after 15 minutes.

If enforced, various possible consequences might result from such a rule. One possibility is that Senators would adapt their behavior to the new requirement to enhance Senate floor efficiency, but in ways that interfere as little as possible with their other activities. They might work more often at their desks on the floor, for example, which might result in some increase in non-legislative activities on the floor, possibly increasing rather than diminishing the confusion of Senate floor sessions. Senators might also spend more time in offices in the Capitol building itself, so as to be close to the floor. Either of these adaptations might diminish Senators' personal interactions with their staff, as well as with constituents and the public.

On the other hand, Senators could attempt to vitiate the effect of the rule, rather than adjust their schedules. Conceivably, Senators could reduce voting delays without increasing attendance by reviving the practice of live pairing, a practice that has declined because it requires a Senator to voluntarily refrain from voting. A more likely development would be for Senators routinely to delay the beginning of rollcalls by triggering quorum calls until they were sure that all Senators who desired to be present, or whose votes they needed, could reach the chamber in time. Thus, the effect simply might be to shift time from votes to quorum calls.

The leadership might also direct the clerks not to conclude a rollcall at the end of 15 minutes, so that the Chair would not annouce the result, in spite of the rule's requirement. This practice has proven effective under present rules, even though any Senator can attempt to bring about an end to the rollcall by demanding the regular order. To enhance the effectiveness of such a demand, S. Res. 276 would require that a device signal the end of the 15 minute period. An additional step to facilitate enforcement might be to install an electronic voting system that would shut off automatically after 15 minutes.

In the absence of some such device, the new requirement might also become ineffective through being routinely waived by unanimous consent before a rollcall begins. To strictly enforce a 15-minute rule, at least one Senator willing to object to the waiver would have to be on the floor most of the time. And Senators who might do so undoubtedly would face persistent pleas to accommodate absent colleagues, in the name of Senate norms of mutual deference and individual prerogative. If Senators objected to waivers anyway, they might find their colleagues less willing to accommodate them in similar circumstances, or on other matters. Also, untimely interruptions of Senators in committee and other meetings could prove annoying and disruptive. Under these conditions, successful enforcement of the requirement might further diminish the Senate's general inclination to comity and deliberation, thereby perhaps leading to an increase in ill will and, possibly strategic obstruction.

Thus, even a proposal apparently as simple as a 15-minute ceiling on each rollcall vote raises more issues and potential problems than might appear at first. The Committee is not convinced that such a rule would be practical, desirable, or enforceable at all times and under all circumstances. On the other hand, it also is unquestionably true that the Senate wastes far too much time on prolonged and unnecessary rollcalls. All Senators know the frustration of votes that stretch far beyond 15 minutes in order to accommodate one or more missing Senators who delay the Senate because they do not want to be listed as absent, even though the outcome of the vote is not in doubt. If Senators were to worry less about their own conveninence than about the convenience of their 99 colleagues, the problem would disappear by itself. By the same token, if Senators exercised more restraint in demanding, and supporting demands for, rollcall votes to decide minor questions on which the Senate is not closely divided, the costs of prolonged votes would be much reduced. Although the Committee will continue to examine S. Res. 276 and related proposals, it is inclined to believe that the solution is more likely to lie in changing Senators' attitudes, and also in making possible a more orderly and predictable floor schedule so that Senators can do a better job of planning their schedules to take account of anticipated floor votes.

Another way to address the same problem might be to make more frequent use of agreements to schedule votes back-to-back at a time certain. Consent agreements on a measure might include provisions that all rollcall votes ordered on each day be stacked to begin at a specified time on that day (or, perhaps, the next). Stacking votes could save time and increase predictability in Senate scheduling. Moreover, it would be possible to reduce the time for votes after the first to less than 15 minutes each, particularly if an electronic voting system were in place. Because the time for voting would be known in advance, requests to accommodate individual Senators might be less frequent, and also easier to resist. Such an approach might even foster more direct and personal interaction among Senators by encouraging them to remain on or near the floor during the voting period.

On the other hand, a fixed requirement of this sort in rule or standing order could significantly change the dynamics of the amending process. If votes were automatically put off until a certain hour, Senators could not time a vote when maximum support was available. In addition, such a proposal would encounter many questions, to which there may be no satisfactory answers, about how to handle subsidiary motions. For example, should a rollcall be stacked on an appeal of a ruling that a pending amendment is not in order? If so, consideration of the amendment presumably would have to be suspended while the appeal was pending. If the amendment was then voted in order, would a stacked rollcall on the amendment then take place? If so, the effect of the point of order would be to cut off debate on the amendment. If not, its effect would be to delay consideration of the amendment. Finally, if these problems were avoided by not stacking rollcalls on appeals, stacking would become less useful, because rollcall votes could occur at other times anyway. Similar and equally serious problems would arise in connection with motions to table, second degree amendments, and many other questions.

Amending Measures Section by Section

Another recent focus of complaint has been the use of quorum calls for delay when Senators wish to offer amendments to a measure, or to participate in its consideration in some other way, but are not yet willing or able to come to the floor to do so. Senators often seem especially disinclined to offer their amendments early during consideration of a bill, leading to laments by bill managers and floor leaders that the Senate is ready to transact business if only a Senator would agree to propose his or her amendment.

Most attempts to address this problem have been directed to individual situations and measures on a case-by-case basis, as party leaders and bill managers have sought unanimous consent to limit amendments to a measure, to fix their sequence, or to set a time certain for the vote on final passage. Such ad hoc arrangements are helpful, but they depend on the explicit or implicit concurrence of all Senators. The only current proposal that appears to address this issue in a general and systematic way is S. Res. 277, which would require measures to be read for amendment by sections, with amendments in order only to the pending section.

This proposal has obvious appeal. If implemented effectively and consistently, it would make the Senate's floor proceedings far more orderly and predictable, to the benefit of Senators individually and the Senate institutionally. But S. Res. 277 proposes much more than a minor change in how the Senate does its business. It could fundamentally alter the process of floor consideration which, in turn, could provoke Senators to find ways to circumvent its intended effect. Most members of this Committee are intrigued by the proposal, and believe that it deserves sympathetic consideration. Before deciding whether to adopt this resolution, however, the Committee and all Senators must give careful thought to whether it would work and precisely how it would work.

For example, Senators might employ many of the adaptive devices discussed in the previous section. In particular, Senators might use the same means discussed there for remaining on or near the floor more often. Conversely, if adaption proved sufficiently burdensome, the Senate could always supersede the new rule by unanimous consent. Furthermore, although S. Res. 277 is advocated as requiring proponents of amendments to be on the floor at the appropriate time to offer them, it might increase rather than diminish demands for accommodative delay. Now, when no Senator present offers an amendment, managers may request a quorum call, which need only last until *any* Senator who wishes to amend *any* section of the bill arrives on the floor. Under the proposed rule, such delays might be more frequent because only Senators with amendments to the pending section would have any reason to come to the floor at that time.

Accommodative delay also might occur if the bill's managers or the party leaders accede to a request to postpone consideration of a section until Senators wishing to offer amendments to it can come to the floor for this purpose. It is uncertain, therefore, whether the approach of S. Res. 277 would lead to increased efficiency. It could do so if bill managers and party leaders steadfastly decline to accommodate Senators seeking exceptions, but this implies substantial alteration of the Senate's preeminent norm of accommodation.

This proposal also raises potentially complex and difficult questions about how the Senate would interpret and implement it. Questions almost certainly would arise, for example, about handling committee amendments, which now come before the Senate first when a measure is called up. Should this practice continue, or should committee amendments to each section come up first when that section is considered? Should a measure still be read by sections if a committee reports an amendment in the nature of a substitute, or should such a substitute automatically be considered as original text for purposes of amendment and read by sections? In addition, this proposal might be of no effect unless some requirement of relevancy also was instituted. Without such a requirement, a Senator who missed the appropriate section could propose his or her amendment to any subsequent, unrelated section, or even offer an amendment providing that his or her original proposal be enacted notwithstanding the language of the earlier section. Senators might even be able to add amendments at the end of the bill which are generally relevant to the bill as a whole and which contradict other of its provisions. Such a practice could effectively nullify the purpose and intent of S. Res. 277.

Any requirement of relevancy in the new rule, however, would be a fundamental departure from the Senate's historic practice of allowing unrelated amendments to be offered to most legislation under most circumstances. Abolishing that practice would deprive Senators of their principal means for bringing a proposition to the floor when the committee of jurisdiction declines to report it or the leadership declines to schedule it. Although the time may have come for such a change, the Senate obviously will want to carefully weigh the costs of forgoing this legislative opportunity for the sake of more orderly and predictable floor procedures.

Accommodative delay in the amendment process clearly is related to the work style of low attendance. Accordingly, reducing such delay effectively may require changing incentives and norms related to this work style. A key might be encouraging Senators to prepare their amendments to a bill before it reaches the floor. Proposals have been made, for example, that no amendment be in order if not filed before the bill is called up. Without changing the rules, similar results might be achieved by including such a restriction in each time agreement, along with a time certain for taking up the bill. Either approach also might require imposing debate limitations on the motion to proceed, so that this motion could not be filibustered to protect amendments not yet prepared.

To reduce strategic delay, such arrangements might have to be supplemented by agreements including a set sequence or times for Senators to offer their amendments. Such schedules could be arranged to benefit both individual Senators and the Senate as a whole. All such arrangements would increase the amount of coordination by party and committee leaders required to ready a bill for consideration, and their workability would accordingly depend heavily on the degree of comity in the Senate. If feasible, however, they might enhance the timeliness of floor action.

Limiting Debate on the Motion to Proceed

In some respects, strategic delay raises different issues than does accommodative delay. Strategic delay is usually possible because, absent provisions of a unanimous consent agreement or a rulemaking statute such as the Budget Act, Senate rules permit limiting the time for consideration only by cloture (or tabling motions). Through several rules changes in recent years, the cloture rule has evolved toward a more workable response to dilatory tactics when the requisite 60 votes can be found. Most recently, Rule XXII has been amended to reduce the time limitation on post-cloture consideration from 100 to 30 hours. Majority Leaders of both parties have become increasingly willing to use cloture to control the Senate's schedule.

However, strategic delay on the floor has continued to draw criticism and prompt proposals for change. In 1984, for example, a proposal included in S. Res. 461 would have permitted the Senate, by a ¾ vote, to impose amendment limitations and an 8-hour cap on a measure's consideration. But one focus of dissatisfaction has been the so-called "double filibuster" or "preliminary filibuster," which is possible because under most circumstances, Senate rules do not limit debate on motions to proceed to consider a measure. In the 100th Congress, S. Res. 275 proposes to limit debate on such motions to one hour; S. Res. 309 would impose a two-hour limit instead. Under the latter proposal, the two-hour limit would be in force only when the motion to proceed is offered by the Majority or Minority Leader, thereby reinforcing the Senate's existing practice of considering this motion to be a leadership prerogative. In any case, this is one significant issue on which most Senators may be able to find common ground.

Today, motions to proceed are nondebatable only if offered in the Morning Hour after an adjournment, or if offered on privileged matters such as conference reports and executive business. Recently, motions to proceed offered in the Morning Hour have been subjected to strategic delay through the use of other Morning Hour procedures. In reaction, the Senate has established precedents that may allow this device to be used more effectively in the future, even when some other measure is the Senate's unfinished business from the previous legislative day. If so, the nondebatable motion to proceed in the Morning Hour could serve some of the same functions for which pending proposals seek to limit debate on such motions at other times. On the other hand, Members with expert knowledge of the Senate's rules and precedents might be able to circumvent the effect of limiting or even prohibiting debate on all motions to proceed. Even if debate was limited to two hours, for example, total consideration of the motion might be extended to far more than that through quorum calls, motions, and rollcall votes. To address this possibility, consideration might be given to reformulating pending proposals to provide a cap on total consideration instead of on debate alone.

A comprehensive limit on debating the motion to proceed would mean renouncing a tool of legislative tactics, not workload accommodation. Historically, the Senate has been reluctant to accept time limitations such as those now being proposed for motions to proceed offered outside the Morning Hour. In response, proponents of the proposals argue that the essential opportunity for strategic delay would not be lost because it would still be possible to filibuster the measure itself. An alternative and more flexible approach might be to establish a nondebatable motion to place a time limit on considering a pending motion to proceed. For instance, a Senator might move that there be no more than six hours of consideration on the pending motion to consider a certain bill. If this motion to limit debate could be adopted by a simple majority vote, Senators might be encouraged to negotiate limitations on a case-by-case basis. The availability of such a motion also would encourage including similar provisions in time agreements. Such a rule would create no new opportunity for strategic delay, but would retain reasonable opportunity for deliberation. It could even prove useful as a test of sentiment on the measure. To prevent repeated use of this motion for dilatory purposes, if could be allowed only once on each motion to proceed (or on any motion to proceed to consideration of the measure).

Thus, there are several ways in which the Senate could prevent filibusters on motions to proceed, and imaginative Senators undoubtedly will be able to devise others that also merit consideration. What is most important is for the Senate to decide if it agrees that one filibuster on each bill is enough.

SENATE COMMITTEES: JURISDICTIONS, ASSIGNMENTS, AND SCHEDULES

Perhaps the most imaginative and far-reaching of the current proposals for change in the Senate is S. Res. 260, submitted by Senators Inouye and Kassebaum. Their resolution seeks to improve the Senate's legislative efficiency by reconfiguring the committee system, consolidating and realigning committee jurisdictions, and limiting committee sizes and assignments. Because of the issues this resolution addresses, and the respect its sponsors enjoy, the Committee has given it special attention. Precisely because of the far-reaching and politically complex changes it proposes, however, the Committee is not prepared at this time to endorse it, in whole or in part. Yet the resolution deserves consideration by all Senators, for the problems it identifies as well as for the solutions it offers. The following comments address the resolution's possible impact on committee jurisdictions and assignments and on the Senate and Senators' schedules.

Committee Structure and Jurisdiction

Invariably, comprehensive congressional reorganization initiatives to rationalize and integrate policy-making have centered on the jurisdictions of committees and on committee consolidation. Senators have not always agreed, however, that fragmentation of legislative jurisdictions necessarily or seriously impairs the formulation of coherent policy, or conversely, that consolidation of jurisdiction in fewer committees would promote the formulation of comprehensive policy or the more timely enactment of laws. What one Senator may see as inefficient fragmentation another may see as competition which generates action and new ideas by one committee when another is immobilized.

The 40 year effort to achieve more integrated policymaking, both in the Senate and the House, through jurisdictional realignment has not fully met expectations. The very act of dividing up subject matter, it can be concluded, deters full integration. Accordingly, practices such as multiple referrals have developed to overcome the deleterious effects of fragmentation, and to avoid or curb unwanted cross-committee conflicts. To a considerable extent, it has fallen to the parties, their committees and leaders, to develop, plan, and advance integrated and coherent policymaking.

However, there is no magic combination of jurisdictional adjustments and regroupings, committee restructurings, party policy committees, and integrative mechanisms that can overcome the fact that, in a body of 100 somewhat autonomous actors, tough and complex problems and policies will continue to resist easy solutions. Partisanship, clashing philosophies, and the need for consensus-building and compromise will remain essential parts of the process of finding acceptable resolutions for the problems of a complex, heterogeneous nation. This fundamental fact of American legislative life, which all Senators recognize, must shape their assessments of the merits and consequences of reorganization proposals, including S. Res. 260.

Committee reorganization can take a variety of forms. One approach is to amalgamate committees into a few broad functional groupings, another to set committee jurisdictions along the lines of the budget categories, a third to arrange committees to conform with the organization of executive branch agencies and programs, and a fourth to create committees to meet the most pressing current problems. Underlying all of them, however, is the assumption that change is needed, that self-restraint and strict adherence to existing rules and procedures are insufficient or unrealistic.

The primary effects of S. Res. 260 would be to combine the authorization and appropriations functions, and restructure the Senate's standing committees into three categories: policy, program, and administrative. The policy and program panels would collectively be called legislative committees. A newly created leadership committee would coordinate their efforts and formulate budgetary policy. Essentially, the 10 policy committees would closely approximate the current 12 "A" committees, while the 4 program committees would, for the most part, be reconstituted from the 7 "B" committees. The leadership committee would basically carry the legislative functions of the Budget Committee.

The consolidation of committees necessarily would involve jurisdictional shifts. But S. Res. 260, in its present form, leaves important issues unresolved and questions unanswered, including how the transfers are to occur, what role past precedent would play in future jurisdictional claims, and whether the multiple referral system would be altered. It is also unclear from the resolution where all issue areas are to be transferred. The resolution does not take explicit account of the possibility of creating other committees, such as select or special committees, although converting the Senate's existing select committees to standing committees implies that additions to the committee system are not anticipated, or at least should be discouraged. Finally, the resolution does not address whether the membership of the Intelligence Committee would continue to rotate.

Much of the change proposed in S. Res. 260 centers on creating a leadership committee to establish overall policy direction by setting spending priorities. The Committee on National Priorities would be composed of all chairmen and ranking members of legislative committees. In addition, the resolution allows for five at-large members to be appointed to create an appropriate party balance. S. Res. 260 does not explicitly reserve some or all of these positions for party leaders. But if this is not what the resolution's sponsors intend, the relationship between the committee and the Senate leadership will require the most careful consideration.

Numbers, Sizes, and Membership

The Senate will want to assess S. Res. 260 in the context of Senators' present and prospective committee assignments, and the impact the resolution would have on the number of assignments, the sizes of committees, the capacity of the Senate to examine issues in depth, and the ability of Senators to coordinate efficiently their range of legislative responsibilities.

As noted earlier, Senate Rule XXV provides for a complex system of committee memberships, which has been shaped in part by the recommendations of the 1977 and 1984 Temporary Select Committees to Study the Senate Committee System (Stevenson and Quayle Committees), as well as by the adoption of waivers creating specific exceptions and exemptions, or "grandfathers." Senators *shall* serve on two A Committees, *may* serve on one B committee, and may serve on as many C committees as needed. They may serve on three subcommittees of each A committee and two on each B committee. Senators also are limited to one full committee chairmanship among all class A and B panels and one subcommittee chairmanship per committee. Further, the sizes of the committees are fixed in the rules to create the appropriate number of seats, and where possible, to accommodate "grandfather" requests. However, by agreement of the Majority and Minority Leaders, the membership of any committee may be "increased temporarily" by up to two members to accord the majority party a "working majority."

In addition to Rule XXV provisions, each party has adopted assignment rules, while permitting some exceptions to them. Both designate "exclusive" committees and limit a Senator's service to only one such unit (Appropriations, Armed Services, Finance, and Foreign Relations for both parties; Budget for the Republicans, and Commerce for the Democrats). As well, the Republicans by precedent and the Democrats by practice do not allow Senators from the same party and the same State to serve on the same committee, although on rare occasions this has occurred. The Senate and each of its parties will need to consider all the intended and possible unintended effects of the Kassebaum-Inouye proposal on this assignment system.

Under S. Res. 260, the membership of each policy committee would be set at 17 members, making a total of 170 available slots, with each Senator limited to service on two of them. The four program committees would range in size from 9 to 19 members. The resolution is silent on service limitations on these program committees, as well as on the three administrative committees, set at 15, 6 and 15 members. The resolution also does not address critically important transition questions, especially how to reach the new size limitations when some current committees are larger than their proposed successors. The leadership committee's membership would range from 28 to 33 members, with chairmen and ranking members on legislative committees guaranteed slots (hence 28 seats).

It should be noted that standardized committee sizes first were adopted in the Legislative Reorganization Act of 1946. Soon after the 1946 Act, however, it became clear that committee workloads, not to mention jurisdictional breadth and attractiveness, were not all the same. Thereafter, committee sizes began to change, with some increasing and others decreasing. In light of Senators' individual preferences and the changing nature and importance of policy issues over time, this Committee is inclined to believe that it ultimately may not be possible to devise a jurisdictional system that effectively equalizes workload among committees. Further, such equalization may not be the most desired end. And if so, fixed committee sizes, much less equal sizes, may not be advisable unless there is a mechanism for making adjustments for purposes other than accommodating the preferences of individual Senators.

Furthermore, the appropriate number and sizes of committees cannot be determined in a vacuum—without regard, for example, to the desired number and sizes of subcommittees. And S. Res. 260 is silent regarding the permissible number of subcommittees—in the aggregate, per committee, or per Senator. If the Senate were to reduce the number of standing committees without also restricting subcommittees, the latter would probably grow in number, and perhaps also in size, thus exacerbating some of the problems the consolidation plan evidently was designed to address. Conversely, if the number of subcommittees were to be restricted, the Senate's practice of providing subcommittee chairmanships to the maximum number of majority members would be jeopardized.

Conclusion

The Committee finds that S. Res. 260 is an innovative and thoughtful approach to revamping the Senate's committee system and redistributing its work. In the interests of coordinating and consolidating responsibilities, the resolution clearly would increase centralization within the Senate, especially through the proposed Committee on National Priorities, to consist of the leaders of other committees and to be responsible for setting broad policy directions. In addition, the proposed policy committees and the dispersion of appropriations jurisdiction might well improve policy coordination and eliminate some of the repetitive debates and votes that often characterize the current authorization-appropriations process. The result probably would be a more orderly Senate, and therein lies the resolution's obvious appeal.

As all Senators recognize, however, orderliness is not the only, and perhaps not even the most important, criterion for evaluating the committee system and proposals to change it. A critical question for Senators to consider is how much centralization of authority the Senate needs, and is prepared to tolerate, for conducting its business. Furthermore, if Senators believe there should be a certain number of committees (for reasons of workload or equity, for example), this conclusion has important implications for the packaging of jurisdictions. On the other hand, if Members believe that jurisdictional lines should be drawn according to some other guidelines or principles, that starting point naturally affects the numbers and sizes of committees. Moreover, the Senate's mechanisms for inter-committee coordination can affect all aspects of committee work. Effective coordination can compensate for significant organizational deficiencies, and even the most carefully calibrated jurisdictional system will continue to require cooperation among committees.

This Committee is virtually unanimous in recognizing and sympathizing with the frustrations the Senate's committee system now provokes. Senators Kassebaum and Inouye deserve the appreciation of all their colleagues for developing a resolution which offers the Senate a vision of a more coherent and coordinated system. But it is precisely the comprehensive nature of the approach taken by S. Res. 260 which gives this Committee pause. Historically, the Senate has not been inclined to make dramatic and sweeping changes in its organization or procedures. Senators naturally are cautious about major changes that are almost certain to have important unanticipated consequences. Therefore, the Committee proposes that the Senate approach the issue of committee reform along two tracks: first, by using its hearings as a forum for continuing consideration of S. Res. 260 and alternatives to it; and second, by pressing for more incremental changes, such as more effective efforts to avoid schedule conflicts and more consistent adherence to the present rules limiting committee memberships, sizes, and assignments, and by considering more modest innovations, such as provision for automatic multiple referral of measures that overlap the established jurisdictions of two or more committees.

GERMANENESS AND OTHER RESTRICTIONS ON THE SUBJECTS OF SENATE FLOOR AMENDMENTS

Among the procedures affecting how the Senate does its work on the floor, only the ability to filibuster compares in importance with the right of Senators to offer non-germane amendments. There is a germaneness requirement only for amendments proposed under cloture and to general appropriations measures, budget resolutions and reconciliation bills, and other measures governed by expedited procedures contained in rule-making statutes. Most often, Senators can offer amendments on whatever subjects they like, unless they relinquish this right by unanimous consent.

The consequences for the Senate are profound, and they shape the relationship between each Senator and the Senate. Committees can effectively veto bills by declining to report them, but supporters can offer the same proposals as non-germane floor amendments to other measures. The Majority Leader, acting for most Senators, may be able to control when measures reach the floor, but not the issues that Senators raise there as amendments. Any Senator can compel his or her colleagues to vote on (or in relation to) virtually any issue at almost any time. The success of floor managers can be jeopardized and their task complicated when Senators select their bills as appropriate "vehicles" for non-germane amendments. The Majority Leader's plans for the Senate schedule can be disrupted unexpectedly, and individual Senators cannot arrange their own calendars with assurance.

When the 100th Congress convened, the Majority Leader submitted three resolutions concerning germaneness that were referred to this Committee; three identical resolutions are on the Senate's Calendar, having gone over, under Rule XIV. These resolutions share a common purpose: to make it easier for Senators to impose and enforce a germaneness requirement on amendments. In addition, Senator Pryor has submitted a resolution intended to restrict "sense of the Senate" and "sense of Congress" amendments that frequently are not germane to the measures the Senate is considering. Senators have made related proposals in the past. For example, Senator Stevens submitted S. Res. 461 in 1984 and S. Res. 32 in 1985, both of which included proposals, closely related to those discussed here, concerning the germaneness of amendments.

The Committee believes this to be one of the most important issues it has considered, and urges all Senators to weigh carefully the merits of the several specific proposals discussed here.

Germane Amendments Under Cloture

Under cloture, the Presiding Officer rules on the germaneness of amendments, and may hold them non-germane even without Senators making points of order from the floor. But such a ruling, like any other, may be appealed, so a majority of Senators could vote to consider an amendment the Presiding Officer has deemed non-germane. Were the Senate to do so, however, the value of the cloture rule would be jeopardized. When Senators invoke cloture, they sacrifice their right to filibuster, but with the assurance that no non-germane amendments will be considered under the debate limits of Rule XXII. Senators would have good reason to hesitate before voting for cloture if they thought that a simple majority then might vote, on appeal, to consider one or more non-germane amendments.

S. Res. 43 would address this potential problem by requiring the same extraordinary majority to overturn rulings of the Presiding Officer on germaneness that is required to invoke cloture in the first place. This resolution may well have been inspired, at least in part, by a 1984 incident in which the Senate almost voted, under cloture, to overturn rulings that school busing and gun control amendments were non-germane, before Senators Byrd and Baker collaborated to convince the Senate to table both amendments. S. Res. 43 would reduce the dangers of such situations in the future by increasing the majority needed to hold an amendment germane on appeal under cloture. During the 1984 incident, however, it was noted that only twice before had a majority voted to override the Chair under similar circumstances. So S. Res. 43 would make it more difficult for Senators to do something that could be seriously disruptive, but something they have not been inclined to do.

Germane Amendments to Appropriations Measures

S. Res. 42, also submitted by Senator Byrd, deals with enforcing germaneness in another situation. Paragraph 4 of Rule XVI now prohibits Senators' amendments to general appropriations measures if the amendments are non-germane or if they propose "general legislation" (or limitations that depend on contingencies). By precedent, however, and notwithstanding these prohibitions, Senators may freely propose germane amendments to a legislative provision the House already has included in an appropriations bill. Otherwise, the Senate would lack the flexibility to respond to the House's legislative initiatives. So before the Presiding Officer rules on a point of order that a pending amendment constitutes legislation on a general appropriations bill, the amendment's sponsor frequently raises "the defense of germaneness," contending that the legislation proposed by the amendment is germane to legislation already in the House-passed appropriations bill. The Presiding Officer submits the question of germaneness to majority vote of the Senate without first ruling on it. If the Senate holds the amendment germane, the point of order falls; if not, the amendment falls because it violates the germaneness requirement.

The Senate may vote, and frequently has voted, that an amendment is germane even when it clearly is not. In fact, the defense of germaneness can be construed as a way for a majority to waive the germaneness requirement. In 1979, however, the Senate established the precedent, inspired by a point of order made by Senator Byrd, that the defense of germaneness can be raised to protect a legislative amendment only when the measure already contains some

House legislative language to which the amendment could be germane. The Chair makes this threshold determination before submitting the question of germaneness to the Senate. S. Res. 42 would codify this precedent as a new subparagraph of Rule XVI.

In the Committee's view, this resolution raises at least three questions that Senators should consider. First, is it desirable to restrict the ability of the Senate to legislate on appropriations bills? Second, is the threshold test an effective way of doing so? And third, is it necessary or appropriate to codify the existing precedent?

Legislating on appropriations bills violates a premise of the authorizations-appropriations sequence—that programmatic and funding decisions should not become entangled. Also, legislative amendments certainly can complicate and prolong the Senate's consideration of appropriations measures. On the other hand, some legislative amendments are closely related to spending bills because they propose to restrict the availability of appropriations. And an appropriations bill may be the only measure the Senate will consider that is related to the amendment in any way. The alternative is to offer the legislative amendment as a non-germane amendment to some other bill, but appropriations measures are more likely than most others to become law. The House, where appropriations measures customarily originate, often waives its rules by majority vote to include legislation. Should the Senate be able to react to the House's legislative provisions, but deny itself the ability to add legislation of its own?

The Senate's 1979 precedent addressed this question. But the threshold test is not very demanding, and it has not been invoked very often. Furthermore, it may be effectively moot during consideration of continuing resolutions which incorporate the texts of other bills by reference. If the precedent has not been much of a constraint, then incorporating it in Rule XVI, as proposed by S. Res. 42, might not make much difference. On the other hand, adopting the resolution would protect against the Senate reversing or nullifying the 1979 decision by majority vote on an appeal whenever the Chair's threshold ruling prevents the Senate from considering an amendment it wants to adopt. Such a ruling presumably would be subject to appeal and reversal by simple majority vote, unless the Senate also were to adopt Senator Byrd's resolution requiring extraordinary majorities instead.

Germaneness Requirements by Motion

The only way in which the Senate can vote to preclude non-germane amendments to a bill is to invoke cloture, which also imposes the debate limitations of Rule XXII. In S. Res. 41, Senator Byrd proposes that the Senate be able to require germaneness without restricting debate as well. On each day the Senate considers a measure, there could be two motions, each debatable for an hour, to require that all non-committee amendments must be germane. Adopting such a motion would require a majority of ⅗ of the Senators present and voting—a slightly less demanding requirement than ⅗ of the Senators duly chosen and sworn, the majority usually required to invoke cloture. The Presiding Officer then would rule on points of order that specific amendments were not germane.

Each ruling by the Chair would be subject to appeal, but S. Res. 41 also would require the same extraordinary majority to overturn the ruling (or to hold an amendment germane if the Presiding Officer submits the question to the Senate). Moreover, this last subparagraph of the resolution would seem to apply to all circumstances in which Senators might vote on the germaneness of amendments, directly or indirectly. If adopted, therefore, S. Res. 41 presumably would complement S. Res. 42, by requiring a vote of 3/5 of the Senators present and voting to overturn a threshold ruling of the Chair concerning the defense of germaneness for an amendment to an appropriations bill.

It is difficult to predict what impact S. Res. 41 would have on the Senate. Senators probably would be more willing to require germaneness than to invoke cloture, but they still might be reluctant to prevent colleagues from offering non-germane amendments to the vehicles of their choice, for fear of being restricted in the same way. It is equally possible, on the other hand, that Senators might become accustomed to living within the constraints of germaneness, perhaps directing most non-germane amendments to a few predictable and attractive targets of opportunity, such as debt ceiling bills. In short, the Committee can be reasonably confident in anticipating how S. Res. 41 would work, but not how it eventually would affect Senators' attitudes and expectations about what happens on the floor.

Limiting "Sense" Amendments

S. Res. 41 and S. Res. 274, submitted by Senator Pryor for himself and Senator Danforth, both would restrict one class of amendments—amendments that would not change current law even if enacted because they only express the "sense of the Senate" or the "sense of Congress." According to Senator Pryor, the Senate considered roughly 50 such amendments during each of the past five years.

Senator Byrd apparently would restrict the "sense" amendments that are in order when amendments must be germane. Under current precedents, a "sense" amendment is likely to be germane if it falls within the jurisdiction of the committee that had jurisdiction over the measure being considered, but not under cloture when such amendments are considered dilatory. S. Res. 41 would narrow this standard by restricting germane "sense" amendments to those that "directly relate to the measure or matter before the Senate," although the resolution does not specify the test (or tests) by which this standard would be applied. Senators Pryor and Danforth propose a different approach. Under S. Res. 274, no "sense" amendment would be in order unless "signed by at least 20 Senators." Moreover, this requirement presumably would apply equally to germane and non-germane "sense" amendments, so the two approaches are not incompatible. But if the Senate decides to require germaneness more often, it might also prefer to preserve non-germane "sense" amendments as a useful outlet for Senators.

These proposals raise two threshold questions: whether "sense" amendments are more of a problem than a useful device, and if so, whether they are a sufficient problem to justify either or both rules changes. The principal objections to these amendments are (1) that they are pointless and a waste of the Senate's time because they do not propose to make law; (2) that despite their lack of legal effect, they can provoke controversy and floor delays because of the subjects they address; and (3) that they can be drafted in ways that convey misleading impressions of Senate or congressional opinion or that present Senators with politically awkward votes.

"Sense" amendments have advantages as well. Sometimes an expression of opinion is more appropriate than a change in law, or the only suitable action for one or both houses to take. These propositions also can be a satisfying outlet for congressional anger or frustrations, and their effect is immediate. "Sense of the Senate" proposals achieve their purposes, for example, when the Senate votes for them, not if and when they ultimately become law. And they can prove useful as compromises when Senators propose appealing legislation that could have detrimental effects. Moreover, not all "sense" proposals are time-consuming and controversial; a "sense of the Senate" amendment congratulating a championship team, for instance, is innocuous at worst, and perhaps even a helpful momentary distraction from weightier matters.

Neither resolution would bar "sense" amendments, nor would either affect *resolutions* expressing the "sense of the Senate" or the "sense of Congress." The Byrd proposal would subject "sense" amendments to a germaneness test, when applicable, that comes closer to the ordinary meaning of "germane" than the test of committee jurisdiction mentioned earlier. But S. Res. 41 would not require that all "sense" amendments be germane. And the Pryor resolution would only require that ⅕ of the Senate support consideration of a "sense" amendment, whether germane or not, although the Senate does not require such a demonstration of support under any other circumstances. Moreover, a Senator would have to take the initiative to enforce the 20-signature requirement by making a point of order, and perhaps creating delay and controversy that otherwise would not have arisen.

Conclusion

Most members of the Committee probably would support some or all of these proposals if they were to come to a vote on the floor, but the Committee also believes that it would be a mistake for the Senate to approve them out of frustration or irritation. Before any such votes occur, Senators will need to recognize that much more than considerations of efficiency are at issue. Requiring germane amendments would work a fundamental transformation in the relation between the Senate and its committees and in the rights and opportunities of individual Senators.

In addition, assessments of proposals to impose or enforce a germaneness requirement on amendments must take account of the Senate's tests of germaneness, which are considerably narrower than a test of relevancy or relatedness. Except for the standard that applies to "sense" amendments, these tests are quite strict—

stricter than the House germaneness standards, and perhaps even stricter than some Senators appreciate. As a general rule, a legislative amendment is germane if, and only if, it proposes to strike out or to change a number or date, or if its effect would be to restrict the scope of the measure or the powers it grants. The germaneness requirement, when in effect and strictly enforced, now does more than preclude amendments that are irrelevant to the measure being considered. It also can prevent consideration of policy alternatives that are highly pertinent but nonetheless non-germane because they expand the coverage of the bill or the powers it conveys.

If the criteria were not quite so limited and narrow, Senators might be more willing to hold that amendments to appropriations bills are not germane, when the Chair submits such questions to majority vote, as Rule XIV requires. And Senators might be prepared more often to impose a germaneness requirement during consideration of other bills. To put it differently, if the Senate began requiring germaneness more often and enforcing it more strictly, Senators might find themselves more constrained than they had anticipated. Consequently, they might well decide to modify the existing germaneness tests so the Senate would not be prevented from considering related proposals and relevant alternatives. Instead, the Senate could overturn germaneness rulings of the Chair, but the Byrd resolutions would require a 3/5 vote to do so. There is precedent in the Gramm-Rudman-Hollings Act for requiring such extraordinary majorities on appeals. Until its enactment, however, the modern Senate had never relinquished ultimate control over its proceedings through majority votes on appeals. Requiring 3/5 votes instead suggests (1) that Senators will be (or will continue to be) tempted to waive the germaneness rule; (2) that there is a real possibility they will do so; and (3) therefore, that the Senate must be protected from its own inclinations, and especially from an unwillingness to allow procedural restrictions to limit its policy choices.

An alternative would be for the Senate to create a motion or other mechanism for waiving the germaneness requirement without resorting to appeals, as it did in the Budget Act, and as the House does through special rules reported by its Rules Committee. Senators might find germaneness requirements more acceptable, especially so long as the Senate's germanenesss tests remain unchanged, if they knew there was a procedure within the rules by which they could waive the requirement when necessary, by a majority or 3/5 vote. In any case, the desirability of extending the germaneness requirement cannot be separated from the willingness of the Senate to enforce it.

THE BUDGET AND APPROPRIATIONS PROCESS

The Constitution clearly assigns the "power of the purse" to Congress. It does not, however, specify the legislative procedures which Congress should use to exercise this power. Instead, such procedures have been developed in the Senate in the form of rules and precedents, rule-making statutes, and informal practices.

In recent years, significant formal changes have been made in budgetary procedures (e.g., the Congressional Budget and Impoundment Control Act of 1974 and the Balanced Budget Act of 1985). At the beginning of the 100th Congress, Senators continued to voice their dissatisfaction with budget policies and the operation of legislative budget procedures. A majority of Senators almost certainly would agree that there is need for improvement in the procedures for making congressional budget policy. But agreeing that a problem exists is far easier than agreeing on what to do about it. The Committee has chosen to focus on two aspects of this problem that have been widely discussed: consolidating the authorization-appropriation process and instituting a biennial budget and appropriation process.

Consolidating the Budget and Appropriations Process in the Senate

In recent times, the distinction between authorizations and appropriations has become less clearcut than it once was. In some cases, similar if not identical issues are considered in both authorization and appropriations measures; in other cases, budgetary outcomes are determined solely in one arena or the other. The blurred distinction between authorizations and appropriations has prompted proposals to merge the two, usually by terminating either the appropriations or legislative committees and then combining the functions of both into one or the other. S. Res. 260, discussed in an earlier section of this report, is one of the most recent of these proposals.

As part of a plan to restructure the Senate committee system, S. Res. 260 would abolish the Appropriations Committee and create 13 new policy and program committees with both legislative and appropriations jurisdiction. The resolution also would amend Senate Rule XVI to abolish current prohibitions against unauthorized appropriations and legislation in appropriations. Taken together, these provisions remove the procedural impediments in the Senate to consolidating authorization and appropriations measures. Though the restructured committees could continue to report separate authorization and appropriations legislation, there would be little incentive for them to do so.

In assessing this dimension of S. Res. 260, the first task is to examine the major problems the resolution seeks to address through consolidation of the authorization-appropriations process, and second, to consider whether combining the two processes addresses these problems and accomplishes the desired objectives.

Addressing the Major Problems

The idea of consolidating the authorization-appropriations process is but one manifestation of a widespread and more general dissatisfaction with congressional budgeting. The size and persistence of Federal budget deficits is perhaps the biggest single budgetary problem of the 1980s. Concern over deficit control prompted enactment of two of the most important budget process reform laws in history—the Balanced Budget and Emergency Deficit Control Act of 1985 and its revision, the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (commonly referred to as Gramm-Rudman-Hollings I and II, respectively).

The purposes of the 1985 Balanced Budget Act and the 1987 amendments were two-fold: (1) to induce Congress and the President to reach timely agreement on deficit reduction legislation, and (2) to impose an automatic procedure, known as sequestration, to reduce the deficit if Congress and the President fail to agree on such legislation. The 1987 amendments, which restored an automatic mechanism for triggering sequestration and extended to Fiscal Year 1993 the timetable for reaching a balanced budget, reflect a congressional judgment that achieving a balanced budget will require a long-term commitment.

The timing of budgetary actions also has been a major problem in recent years. Deadlines established in the Congressional Budget Act of 1974, and accelerated by the 1985 Balanced Budget Act, have been missed regularly. Delays in each stage of budgetary decisionmaking—adoption of the budget resolution, followed by consideration and enactment of authorizations, appropriations, and reconciliation legislation—have contributed to the problem. Final action on budgetary legislation has tended to occur late in the session. Consequently, important policy and funding decisions are decided under the dual pressures of a potential Government shutdown and sine die adjournment.

The problems of deficit control and delayed budgetary actions have contributed to another budget process phenomenon that concerns all Senators—the increasing use of omnibus packages to enact budgetary legislation. Under pressure to enact regular appropriations which have been delayed for one reason or another, Congress recently has resorted to the use of omnibus continuing resolutions to enact several or all regular appropriations bills in one enormous measure. The need to forge agreements to reduce the deficit also has contributed to the increasing use of omnibus continuing resolutions. Such measures provide a useful legislative vehicle in which to establish priorities, make trade-offs, and counter the President's veto authority. However, because action on omnibus continuing resolutions occurs late in the session, the need to expedite action can make informed deliberation difficult, if not impossible. In such a situation, Senators who may have waited the entire session to offer a particular amendment, perhaps because action on the relevant authorization or regular appropriations measures was delayed or did not occur, may find themselves under pressure to withhold in the interest of timely budgetary action. Conversely, wrapping regular appropriations bills into a single measure can facilitate the inclusion of provisions that might otherwise fail to pass or that might invite a presidential veto.

The Committee shares the widespread frustration in the Senate with this situation, as well as with the complaint that the three-stage budget-authorization-appropriation process invites and encourages revisiting closely divided issues throughout a session of Congress. Senators commonly cite the defense budget as the leading example of such repetition and redundancy; aggregate levels of defense spending as well as funding for specific programs are debated in the context of the budget resolution, and later when the accounts and programs are before the Senate during consideration of both the defense authorization bill and the defense appropriations bill. Nor is this situation unique to defense; it is characteristic of many of the Senate's decisions, especially for agencies and programs which must be reauthorized on an annual or periodic basis.

Possible Effects of Consolidation

Consolidating the authorization-appropriations process, particularly in the way proposed by S. Res. 260, could have an impact on each of the major problems discussed above. But such a major change in the Senate's operations is certain to have unanticipated effects as well. And the Committee is not yet convinced that any such organizational change offers a true solution to what is at heart a political problem and a policy dilemma.

Though a number of reasons can be cited for consolidating the authorization-appropriations process, for example, the cause of deficit reduction may not be among them, if past history is any indication. In the late 19th Century, the Senate and House Appropriations Committees were stripped of much of their jurisdictions. It is generally acknowledged that this action was taken in response to congressional sentiment at that time to increase spending for Federal programs. Legislative committees were viewed as being more likely to advocate more spending for programs within their jurisdictions than would the Appropriations Committees. When jurisdictions over appropriations were again consolidated within the Appropriations Committees in the early 1920s, it was done, in part, to encourage tighter control over Federal spending.

This historical experience should give the Senate pause. It is likely that legislative committees, which continue to have a more focused perspective that may place less emphasis on the total Federal budget, again would be less likely to exercise budgetary restraint than would a single committee which must consider the funding needs of all Federal activities. Of course, times have changed, and widely shared concern over persistent deficits combined with the budgetary discipline of the Budget Act and the Gramm-Rudman-Hollings Act may work to counteract any tendency of legislative committees to promote increased spending in their respective sectors. Yet, despite the budget and deficit control laws, large deficits persist, and reorganizing the committee system to decentralize jurisdiction over appropriations *could* aggravate the problem of deficit control.

Would consolidating the authorization-appropriations process speed the Senate's action on the budget? Perhaps delayed authorizations would no longer contribute to delay in the appropriations process. But other and possibly more intractable causes of delay would likely be unaffected or even worsened by consolidation. For example, the era of high deficits has made it increasingly difficult for Congress and the President to agree on broad fiscal policy. Stalemate between Congress and the President on the proper mix of revenues and spending, and of defense and non-defense spending, has delayed action on the legislation needed to implement these policies. Dispersing jurisdiction over appropriations would not appear to resolve this problem, and adding new participants might even make the situation worse. Another cause of delay which might be aggravated by consolidating the authorization-appropriations process is the use of appropriations measures to enact substantive legislative decisions. One of the reasons for separating authorizations and appropriations is that the controversy associated with substantive legislation tends to delay action on appropriations. So redesigning the committee system to encourage committees to address programmatic and funding issues in the same bill could further complicate the timely enactment of appropriations.

The extent to which consolidating the authorization and appropriations committees would reduce the number of repetitive budgetary decisions may be more limited than expected. The need for annual or periodic reauthorization bills would be eliminated, for all practical purposes. However, legislative committees already have jurisdiction over half of all spending, principally through their jurisdiction over entitlements and similar programs. Control over spending by the Appropriations Committee is diminished by all entitlement programs, whether annually or permanently appropriated, where spending levels are determined by existing law. Therefore, because annual discretionary action by the Appropriations Committee affects less than half of all Federal spending, the impact of dispersing its current jurisdiction might also be less than anticipated.

The increased use of omnibus budgetary measures, and particularly omnibus continuing resolutions, presents Congress with a difficult dilemma. Congress is inherently a decentralized institution, composed of co-equal members representing different constituencies. But the use of continuing resolutions tends to concentrate decision-making authority in the hands of the Appropriations Committee. Support for breaking up the Committee's jurisdiction may reflect dissatisfaction with this trend. By dispersing control over appropriations to their legislative committees, Senators may feel that they would be more involved in important funding decisions.

On the other hand, dispersing appropriations jurisdiction would make it more difficult for the Senate to resort to omnibus packages when necessary. For example, how would appropriations bills reported from different committees be packaged together to implement a budget summit agreement? Also, the criticism that omnibus continuing resolutions deprive Senators of opportunities to influence or contribute to the legislative process may be somewhat misplaced. Most provisions of such measures are not created anew at the end of each session. There often has been extensive legislative action on separate measures both in committee and on the Senate floor, much of which is ultimately included in the final omnibus product. In fact, there sometimes have been complaints that Senators have used continuing resolutions to reopen policy decisions the Senate had made earlier in disposing of amendments to other measures.

Finally, the Committee is concerned that a unilateral Senate decision to disperse appropriations jurisdiction among legislative committees may create problems of coordination with the House. For example, House rules governing legislation and unauthorized appropriations in general appropriations bills normally are stricter than comparable Senate rules, and may present problems at the conference stage should existing Senate rules be fundamentally changed. For example, House conferees might well have to insist that any and all such Senate proposals be reported from conference as amendments in disagreement. In addition, if the Senate were to amend House authorization bills to include appropriations, the result might well be disagreement with the House over application of the Origination Clause. In short, this Committee has serious questions about whether it is practical and realistic for either house to adopt a proposal such as S. Res. 260 except as part of a bicameral agreement.

The Committee has approached S. Res. 260, as it would any other reform proposal, by assessing both the benefits and the costs that might accrue from consolidating the authorization-appropriations process. This has involved considering the purposes served by consolidation and the likelihood of accomplishing them, as well as possible adverse effects. And just as the Committee has some questions and doubts about the committee reorganization plan the resolution proposes, it also believes that the Senate should be very cautious about embarking on a major transformation of the way in which it makes its funding and policy decisions. This is a subject, after all, which affects all Senators directly and on which all Senators are experts from their own perspectives and positions.

Biennial Budget and Appropriation Process

At the same time, there are other approaches to addressing this complex of issues and problems which also deserve the most serious consideration. In particular, many Senators have expressed interest in exploring the concept of a biennial budget process, an idea on which the Pearson-Ribicoff and Quayle Committee reports both commented favorably.

Supporters of biennial budgeting have asserted that lengthening the budgetary cycle would ease the crowded budgetary agenda, permit more time for oversight activities, and greatly reduce the likelihood of continuing resolutions. Opponents have maintained, on the other hand, that the current budgetary problems of delay, stalemate, and legislative crowding result from the inability of the President and Congress to reach political agreements on substantive issues, and probably would not be solved by simply expanding the period for considering budgetary legislation. In the 100th Congress, S. 2478, introduced on June 7, 1988, by Senators Ford, Roth, Kassebaum, Heinz, Nickles and Danforth, would provide for a 2-

year Federal budget cycle. The Committee believes that the Senate should consider adopting this proposal, at least on a partial and experimental basis, before turning to even more sweeping changes such as those proposed in S. Res. 260.

SEPARATE APPENDIX MATERIALS

Consultant's Commentary, "Senate Computer Resources"
CRS Report, "The State of the Senate: Conditions, Proposals, and Prospects for Change"
CRS Report, "Recommendations for Senate Reform: A Comparison of Selected Proposals"
CRS Memorandum, "Senate Committee Jurisdiction"
CRS Issue Brief, "Congressional Reform—Senate (96th Congress)"
CRS Issue Brief, "Senate Changes in the 97th Congress"
CRS Issue Brief, "Senate Procedure and Organization: Proposals for Change in the 98th Congress"
CRS Issue Brief, "Senate Procedure, Rules, and Organization: Proposals for Change in the 99th Congress"
CRS Issue Brief, "Congressional Budget Process Reform"
CRS Memorandum, "Potential Complications and Problems for the House and Bicameral Relations of Some Possible Changes in Senate Rules or Practices Affecting the Authorization-Appropriation Process"
CRS Report, "Congressional Approaches to Biennial Budgeting"
CRS Report, "Congressional Approaches to Regulating Continuing Resolutions: Measures Introduced in the 100th Congress"
CRS Report, "Indicators of Senate Activity and Workload"
Center for Responsive Politics Report, "Congress Speaks—A Survey of the 100th Congress"
Chart, "Membership on Senate Committees"
Responses to Rules Committee Questionnaire by Senate Committee Chairmen and Ranking Minority Members
Selected Testimony by Senators and Spouses on Proposals to Amend the Standing Rules of the Senate
Select Bibliography on Senate Operations

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